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No. 95-1873

Supreme Court, U. S.
F I L E D

NOV 12 1996

In The
Supreme Court of the United States

October Term, 1996

GUY E. ADAMS, et al.,

Petitioners,

v.

CHARLIE FRANK ROBERTSON and LIBERTY
NATIONAL LIFE INSURANCE COMPANY,

Respondents.

On Writ Of Certiorari To The
Supreme Court Of Alabama

JOINT APPENDIX
VOLUME III, PAGES 537-815

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Petition For Certiorari Filed May 16, 1996
Certiorari Granted October 1, 1996

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IN THE CIRCUIT COURT FOR
BARBOUR COUNTY, ALABAMA
Clayton Division

| | |
|--------------------------------------|--------------|
| CHARLIE FRANK ROBERTSON,) | |
| for himself, and in his) | |
| representative capacity for the) | |
| class of persons described herein,) | Case Number: |
| Plaintiff,) | CV-92-021 |
| vs.) | |
| LIBERTY NATIONAL LIFE) | |
| INSURANCE COMPANY,) | |
| Defendant.) | |

AFFIDAVIT OF WILFRED L. THORNTHWAITE

(Filed January 24, 1994)

STATE OF TENNESSEE
COUNTY OF WILLIAMSON

Before me, the undersigned notary public in and for said county and said state, personally appeared WILFRED L. THORNTHWAITE, who, being known to me and having been first duly sworn and placed under oath, deposes and says as follows:

1. My name is Wilfred L. Thornthwaite. I have personal knowledge of the matters set forth in this affidavit based upon my education, my experience as an actuary, my experience in the insurance business, and based upon the materials I have reviewed and the work I have performed over the last several months relating to cancer

insurance policies issued by Liberty National Life Insurance Company ("Liberty National"). My education, professional experience and qualifications as an actuary including the following:

(a). I am presently President of Thornthwaite & Co., an insurance consulting firm located in Brentwood, Tennessee. Thornthwaite & Co. provides actuarial consulting services for a variety of clients, private and governmental, related to the insurance industry. My business address is Thornthwaite & Co., 100 Winners Circle, Suite 200, Brentwood, Tennessee 37027.

(b). I obtained a Bachelor of Science Degree in 1963 in Accounting in 1963 from what is now David Lipscomb University in Nashville. In 1979, I obtained a Masters of Business Administration with an emphasis in Marketing from the University of Tennessee at Nashville. I am a Fellow, Society of Actuaries (FSA); a member of the American Academy of Actuaries (MAAA); a Fellow of the Conference of Consulting Actuaries (FCA) and an Enrolled Actuary (EA).

(c). My work experience includes working as an assistant actuary for Fidelity Mutual Life Insurance Company in Radnor, Pennsylvania from 1969 to 1976. During that period of time I was responsible for all corporate product development including individual, group and pension products. From 1976 to 1984 I served as Vice-President of National Life and Accident Insurance Company, Nashville, Tennessee. I was responsible for marketing, administration and product management of the employee benefit product line, including group, life and health

products, voluntary insurance programs and tax qualified plans. I was also responsible for management of corporate benefit programs. In the course of my work for National Life and Accident Insurance Company, I priced a cancer insurance policy issued by that company.

(d). A summary of my curriculum vitae is attached hereto as Exhibit "A". I have been retained as an expert witness for consulting in connection with various litigation matters. I have been retained by governmental agencies on more than one occasion concerning insurance issues. I have also testified as an expert in connection with private litigation involving actuarial issues related to insurance.

2. I was retained by the plaintiffs in *Edith N. McAllister v. Liberty National Life Insurance Company, et al.*, CV-92-4085, a case in the Circuit Court of Mobile County, Alabama ("McAllister"), to analyze certain cancer insurance policies issued by Liberty National and to review the cancer exchange programs conducted by Liberty National Insurance Company in 1986 and thereafter. I reviewed (a) all of the depositions taken in the McAllister case and the exhibits thereto with the exception of the medical depositions, (b) the documents produced by Liberty National to the plaintiffs and (c) Liberty National's responses to written discovery propounded by the plaintiffs. Among the Liberty National documents I reviewed was a breakdown of the benefits paid by Liberty National by benefit category for each policy and plan issued by Liberty National for the years 1986 through 1992.

3. I testified at the trial of the McAllister case and gave certain opinions in regard to (1) the relative value of

certain cancer insurance policies issued by Liberty National prior to 1986 ("old policies") which provided unlimited benefits for radiation, chemotherapy and prescription drugs out-of-the-hospital when compared with the benefits in the cancer insurance policies issued by Liberty National in 1986 and subsequent to 1986 ("new policies"); (2) the cancer exchange programs Liberty National carried out in 1986 and thereafter; and (3) the damages suffered by the plaintiffs. For the Court's reference, this affidavit summarizes my testimony in the McAllister case in regard to these opinions:

(a). *The old policies providing unlimited coverage for radiation, chemotherapy and prescription drugs out of the hospital are more valuable to a policyholder because these policies are a greater, more valuable package of benefits.* In my opinion as an actuary the best information to analyze the relative value of the benefits afforded by a policy is the company's own experience, and in this case, the best way to analyze the relative value of the benefits afforded by the old and new policies is to analyze the claims costs incurred by Liberty National with respect to two comparable groups of insureds. I compared the claims made in 1991 and 1992, respectively, by persons insured under Plans 505, 506, 509, 510, 564 and 565 (old policies) with claims made during the same period by persons insured under Plans 5GL, 5GM and 5GN (new policies). Plans 5GL, 5GM and 5GN were designated as plans sold to persons exchanging their new policies. By 1991, the majority of persons in Plans 5GL, 5GM and 5GN would have had their policies exchanged again and the persons insured under these plans in 1991 and 1992 would have been a comparable

group of insureds to the persons still insured under Plans 505, 506, 509, 510, 564 and 565. I checked the ages of the insureds and the number of insureds and these appeared to be comparable groups of policyholders. I then compared the benefits paid under these respective plans for 1991 and 1992, respectively.

In 1991, the average amount of benefits paid per policy under the old plans was \$222.66 and the average amount of benefits paid per policy under the new plans was \$188.80. In 1991, the payments for radiation, chemotherapy and prescription drugs out of the hospital constituted 79% of the total benefit dollars paid by Liberty National under the old policies but payments for these benefits constituted only 43.3% of the total benefit dollars paid under the new policies. The average annualized premium charged by Liberty National per policy in 1991, however, was higher under the new policies. For the old policies the average annualized premium per policy in 1991 was \$200.58 but for the new policies it was \$207.32. Copies of charts depicting these computations are attached hereto as Exhibits "B" and "C."

In 1992, the average amount of benefits paid per policy by Liberty National for the old policies was \$350.29 while the average amount of benefits paid per policy under the new policies was \$275.80. Payments for radiation, chemotherapy and prescription drugs out of the hospital constituted 80.4% of the total benefit dollars paid by Liberty National under the old plans in 1992 but payments for these benefits under the new policies was only 45.8% of the total benefit

dollars. Copies of charts depicting the computations are attached hereto as Exhibits "D" and "E."

Based upon my comparison of the benefits actually paid by Liberty National in 1991 and 1992 as aforesaid, in my opinion, the old policies providing unlimited coverage for radiation, chemotherapy and prescription drugs out of the hospital is more valuable to a policyholder because it provides a larger package of benefits. The value of the benefits for radiation, chemotherapy and prescription drugs outside the hospital clearly outweighs the value of any benefits added by Liberty National in the new policies, including the first occurrence benefit.

I reviewed the medical bills submitted by Grace I. Dismuke to Liberty National in connection with her claim for cancer insurance and I compared what Liberty National would have paid Mrs. Dismuke under her old policy with what Liberty National paid Mrs. Dismuke under her new policy. Based upon my comparison, Liberty National would have paid more of Mrs. Dismuke's bills under her old policy. Specifically, Mrs. Dismuke would have received \$6,004.00 more from Liberty National under her old policy. A chart showing the comparison of Mrs. Dismuke's bills is attached hereto as Exhibit "F". The bills which would have been paid under Mrs. Dismuke's old policy but which were not paid under the new policy were bills for radiation and prescription drugs outside the hospital. Mrs. Dismuke's claim is one example of the significance of the unlimited benefits for radiation, chemotherapy and prescription drugs

and her claim supports my conclusions in this case.

(b). *Liberty National's claim costs for the unlimited benefits for radiation, chemotherapy and drugs outside the hospital were increasing significantly by the mid 1980's and were perceived to be an increasing problem by Liberty National.* In reviewing the deposition testimony of Anthony McWhorter, Liberty National's interrogatory answers and the other documents produced by Liberty National, including Liberty National's loss ratios on the cancer insurance policies with unlimited benefits for radiation, chemotherapy and prescription drugs out-of-the-hospital, I found that the claims costs for the radiation, chemotherapy and prescription drugs out-of-the-hospital benefits were increasing significantly and were perceived to be an increasing problem by Liberty National.

(c). *The cancer exchange programs conducted by Liberty National were unfair to Liberty National's policyholders.* It is my opinion, and I so testified at the McAllister trial, that, based upon my review of the marketing materials Liberty National distributed to its agents in connection with the cancer exchange programs which Liberty National began in 1986, the cancer exchange programs were unfair to Liberty National's policyholders because Liberty National took no steps to ensure that policyholders were fully advised of the restrictions placed on the radiation and chemotherapy benefits and of the elimination of coverage for non-chemotherapy prescription drugs. I testified that, while exchange programs are not *per se* unfair, there was no evidence that Liberty

National emphasized or even suggested to its sales agents that they should explain to policyholders when an old policy was being exchanged that the unlimited benefits in the old policies were being restricted or eliminated in the new policies. I found no reference at all in any of the marketing materials distributed to Liberty National's agents in regard to these policies which suggested to the agents that they should explain that these benefits were being restricted or eliminated. In my experience it is in the custom and practice in the insurance industry that agents are instructed to tell policyholders about all changes in benefits and that it is emphasized to agents in situations where benefits are being restricted or eliminated that an insured should be advised fully about any benefits which are being restricted or eliminated. In my opinion, in an exchange situation an agent has a duty to explain to an insured any benefits which are being reduced or eliminated. The safest way for an insurance company to be sure that the insured is given information about any benefits which are being reduced or eliminated is to put the information in the sales brochure to be utilized by agents when making the exchange. Liberty National, however, did not include any information about benefits which were being restricted or eliminated in the brochures relating to the new policies. In fact, the sales brochures did not compare the benefits in new policies with the benefits in the old policies on a benefit by benefit basis. I further testified that, in my opinion, the commission structure paid to agents, which is reflected in McAllister Plaintiff's Exhibits 68 and 74, constituted an incentive for agents to exchange policies.

(d). *Mrs. McAllister paid more in premiums for the new policies than she would have paid if she had kept the old policies.* I reviewed the premiums paid by Edith McAllister for the cancer insurance policies she purchased for herself and for her daughter, Ursula Graham. I compared the premiums she paid on the new policies with the amount she would have paid in premiums for her old policies if her policies had not been exchanged. A copy of a chart showing the premiums paid by Mrs. McAllister on her new policies and what she would have paid on her old policy is attached hereto as Exhibit "G." A copy of a similar chart relating to the policies Mrs. McAllister purchased for her daughter, Ursula Graham, is attached hereto as Exhibit "H." As reflected by these charts, if Mrs. McAllister had retained her old policy, in 1992 she would have paid \$285.00 in premiums on her old policy but the premiums on her new policy were \$308.00. The premiums on the old policy covering Mrs. Graham would have been \$132.00 in 1992 but the premiums on the new policy were \$172.00. Attached hereto as Exhibits "I" and "J" respectively are graphs illustrating the difference in the premiums paid by Mrs. McAllister on the policies she purchased for herself and Ursula Graham, respectively. I calculated the difference in the premiums charged Edith McAllister for her policy and the policy she purchased for her daughter, Ursula Graham, from the time the policies were first exchanged on February 1, 1987. A copy of a chart summarizing these calculations is attached hereto as Exhibit "K". As reflected by the chart, as of October 12, 1993, Mrs. McAllister had paid \$517.47 more in premiums for her new policy and \$209.01 in more

in premiums on the policy she purchased for her daughter, Ursula Graham.

(e). *The cancer exchange program was a means by which Liberty National moved insureds into higher age-brackets which resulted in them paying higher premiums.* Part of the increase in premiums charged both Mrs. McAllister and Ursula Graham was a result of Liberty National's moving its insureds into higher age brackets through the cancer exchange programs. Mrs. McAllister's old policy provided, for example, that, while Liberty National had the right to raise premiums on her policy, her premiums would always be based upon her age at the time that she obtained the policy. Mrs. McAllister's old policy was issued to her on April 1, 1982, when she was 50 years old. Under Plan 564 there were eight age brackets and Mrs. McAllister was in a "middle" age bracket for persons aged 46-50. In the exchange program, when an insured agreed to exchange an old policy, the rate for the premium for the new policy was based on the insured's age at the time of the exchange. When Mrs. McAllister's policy was first exchanged on February 1, 1987, she was 54. Premiums for the 5G series of policies issued in 1986 were based on only three age brackets and Mrs. McAllister was in the highest age bracket for persons aged 51-64. Mrs. Graham similarly was moved from a low age bracket to a middle age bracket at the time her policy was exchanged the second time.

Further affiant sayeth not.

/s/ Wilfred L. Thornthwaite
Wilfred L. Thornthwaite

Sworn to and subscribed
before me this 18th day of
January, 1994.

/s/ Karen M. Dallas
NOTARY PUBLIC

My Commission Expires: July 23, 1994

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& REEVES
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(205) 432-6751

By: /s/ Norman E. Waldrop, Jr.
Norman E. Waldrop, Jr.

By: /s/ M. Kathleen Miller
M. Kathleen Miller

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 24th of January, 1994, served a copy of the foregoing pleading upon:

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by depositing a copy of same in the United States mail,
properly addressed and postage prepaid.

/s/ M. Kathleen Miller

EXHIBIT "A"

WILFRED L. THORNTHWAITE, FSA

RELEVANT EXPERIENCE

1984-present: President, Thornthwaite & Co.,
Brentwood, TN. Actuarial consulting firm pro-
viding insurance and employee benefit consult-
ing services.

1976-84: Vice President, National Life & Accident
Insurance Co. Nashville, TN. Responsible for
marketing, administration and product man-
agement of employee benefit product line
including group life and health, voluntary
insurance programs, and tax qualified plans.

Also responsible for management of corporate
benefit programs.

1969-76: Assistant Actuary, Fidelity Mutual Life
Insurance Co. Radnor, PA. Responsible for all
corporate product development including indi-
vidual, group and pension products.

EDUCATION

BAS (Accounting) David Lipscomb University

MBA (Marketing) University of Tennessee

Graduate studies in life contingencies at North-
eastern University

ACTUARIAL DESIGNATIONS

Fellow, Society of Actuaries (FSA)

Member, American Academy of Actuaries (MAAA)

Fellow, Conference of Consulting Actuaries (FCA)

Enrolled Actuary (EA)

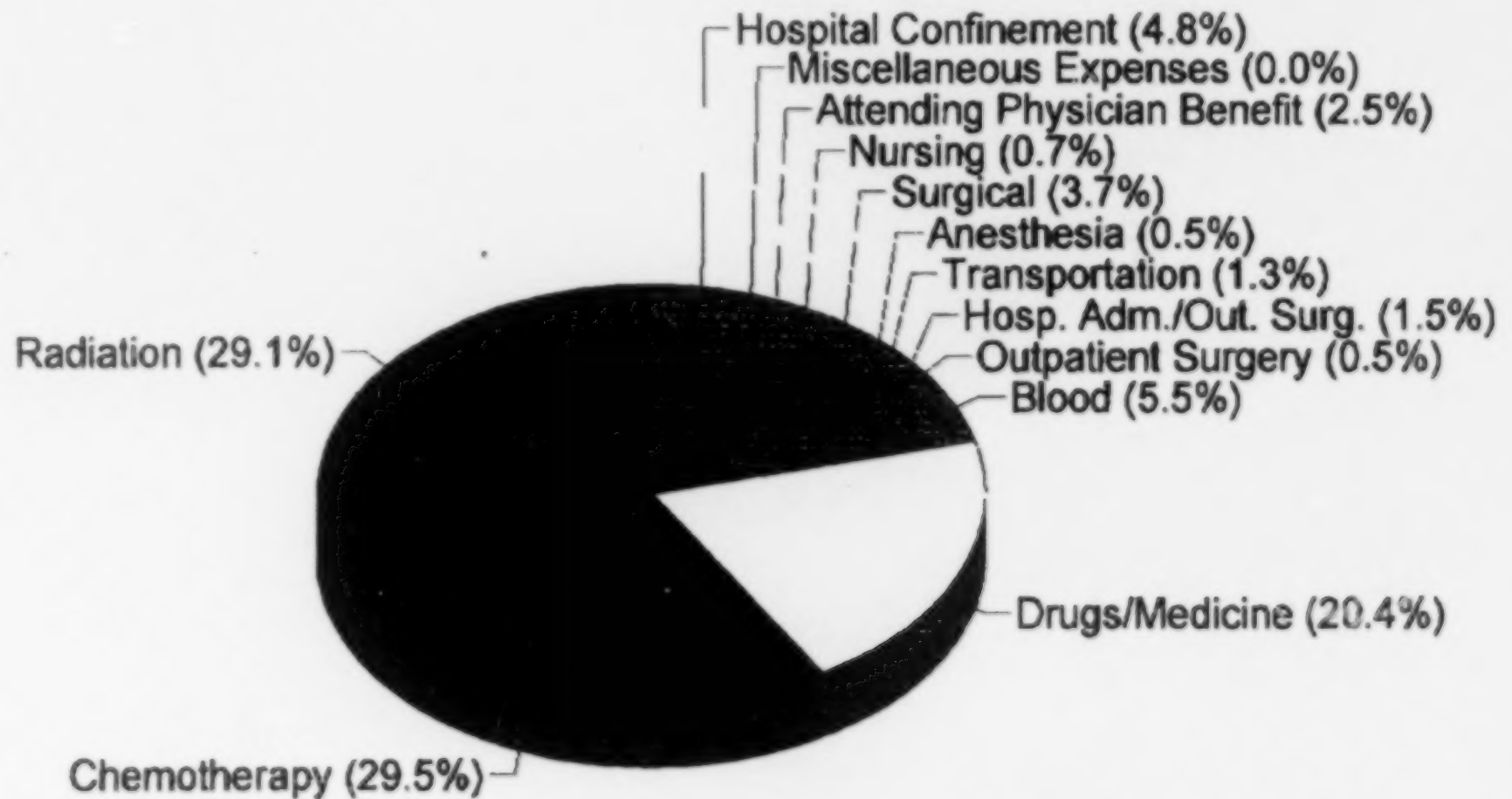
OTHER DESIGNATIONS

Fellow, Life Management Institute (FLMI)-Pension
Planning

Chartered Life Underwriter (CLU)

Chartered Financial Consultant (ChFC)

LIBERTY NATIONAL LIFE INSURANCE COMPANY

Cancer Expense Plans
Comparison of Benefits
1991

Plans 505, 506, 509, 510, 564, 565

Average Benefits Paid per Policy

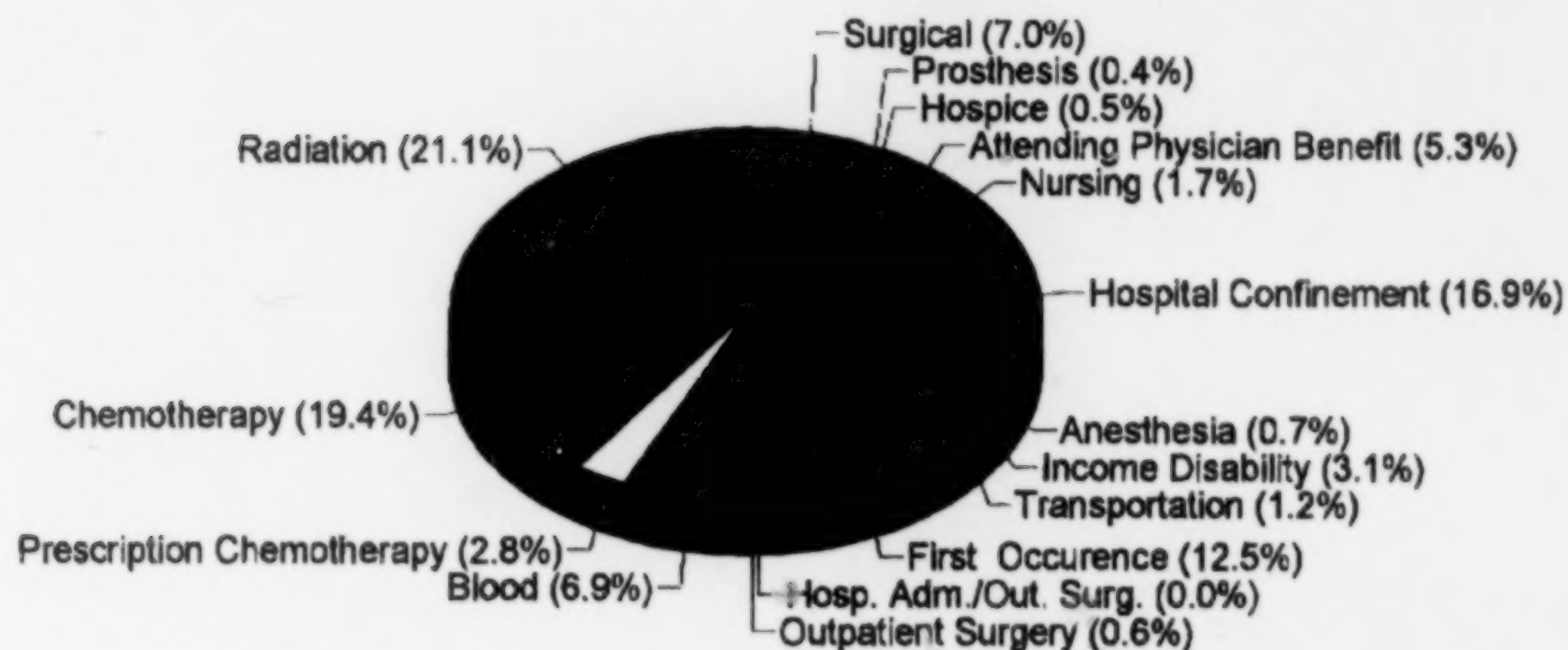
\$222.66

Average Annualized Premium per Policy

\$200.58

LIBERTY NATIONAL LIFE INSURANCE COMPANY

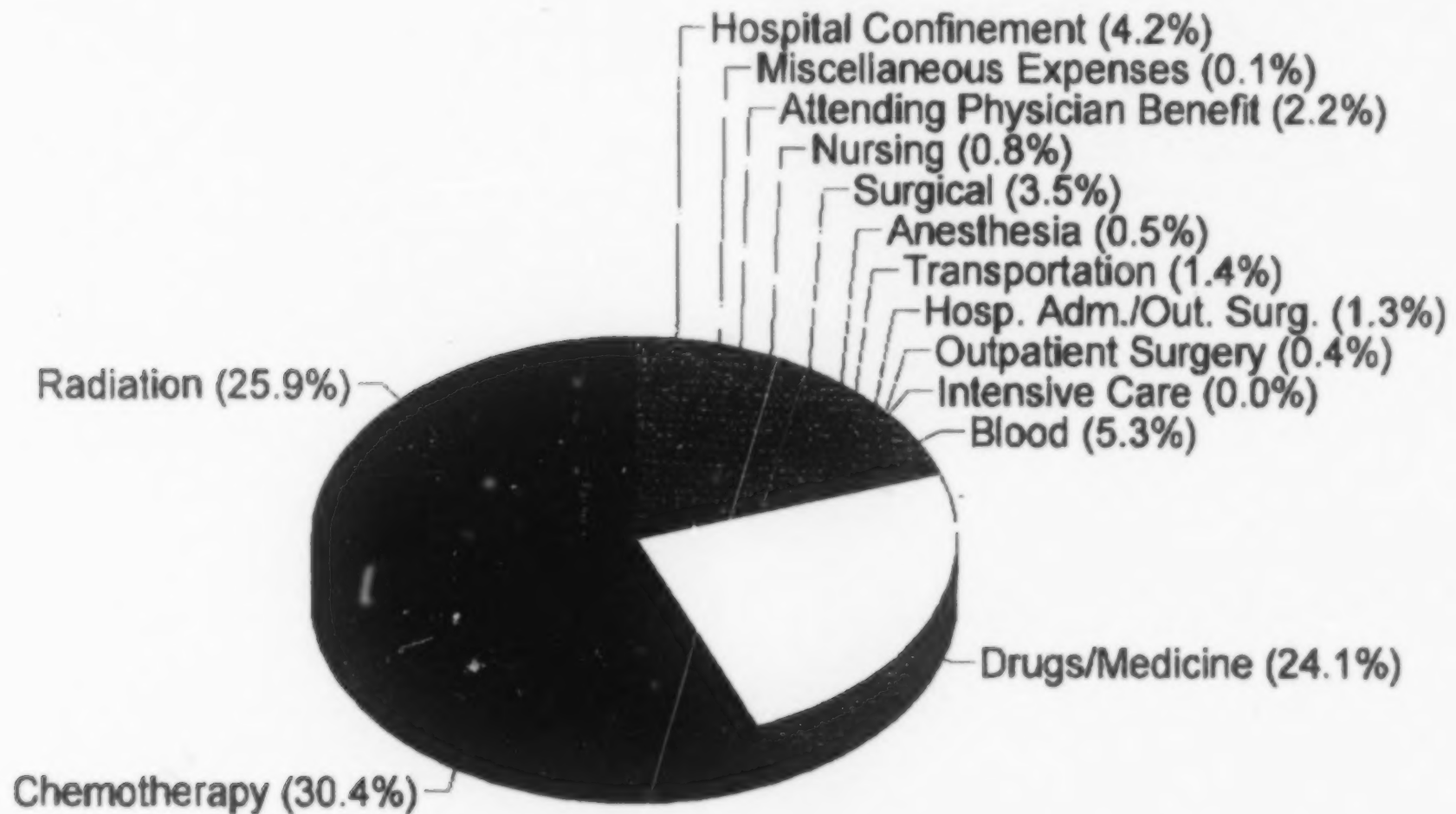
Cancer Expense Plans
Comparison of Benefits
1991



Plans 5GL, 5GM, 5GN

| | |
|----------------------------------|----------|
| Average Benefits Paid per Policy | \$188.80 |
|----------------------------------|----------|

| | |
|---------------------------------------|----------|
| Average Annualized Premium per Policy | \$207.32 |
|---------------------------------------|----------|

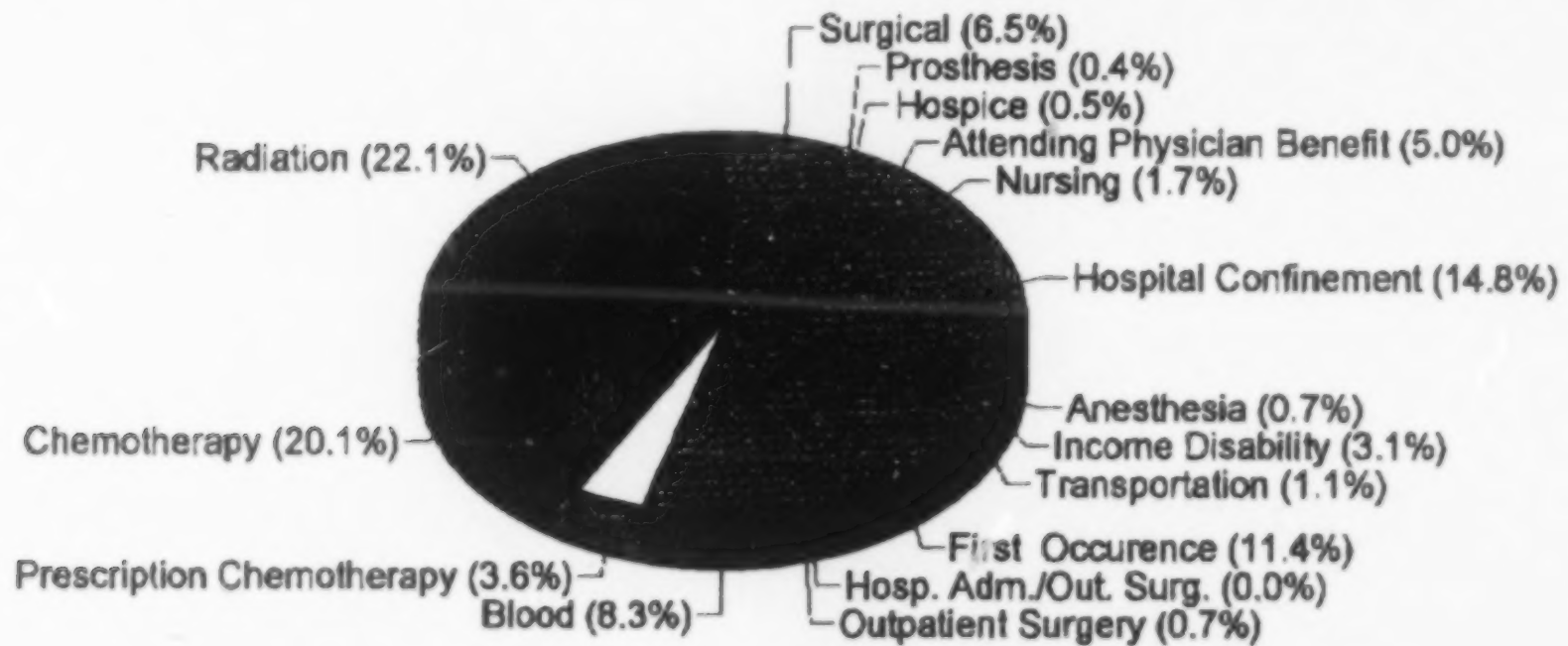
LIBERTY NATIONAL LIFE INSURANCE COMPANY**Cancer Expense Plans
Comparison of Benefits
1992**

Plans 505, 506, 509, 510, 564, 565

Average Benefits Paid per Policy \$350.29

Average Annualized Premium per Policy \$319.35

LIBERTY NATIONAL LIFE INSURANCE COMPANY

Cancer Expense Plans
Comparison of Benefits
1992

Plans 5GL, 5GM, 5GN

Average Benefits Paid per Policy \$275.80

Average Annualized Premium per Policy \$347.18

**DIFFERENCE IN BENEFITS
OLD POLICY AND NEW POLICY
GRACE DISMUKE**

| MEDICAL PROVIDER | DATE OF SERVICE | TOTAL CHARGES | WHAT LIBERTY NATIONAL WOULD HAVE PAID UNDER OLD POLICY | PAID BY LIBERTY NATIONAL UNDER NEW POLICY |
|---|-----------------|---------------------|--|---|
| Department of Anesthesiology (USAMC) | 04/21/92 | \$ 200.00 | \$ 100.00 (max.) | \$ 43.75 (max. 25%) |
| Anesthesia Services, P.C. | 05/22/92 | \$ 714.00 | \$ 100.00 (max.) | \$ 272.75 (max. 25%) |
| Kenneth C. Brewington, M.D. | 05/22/92 | \$ 3,037.00 | \$ 676.00 (2 procedures) | \$ 1,091.00 (2 procedures) |
| | 09/21/92 | \$ 37.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| | 12/01/92 | \$ 37.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| | 03/08/93 | \$ 37.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| | 06/07/93 | \$ 60.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| Internal Medicine & Oncology (Dr. Kessler) | 05/23/92 | \$ 376.00 | \$ 60.00 (max. x 4 days) | \$ 140.00 (max. x 4 days) |
| Mobile Pathology Group, P.A. | 09/09/92 | \$ 55.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| Mostellar Medical Clinic | 03/31/93 | \$ 300.00 | \$ 60.00 (D&C) | \$ 174.00 (D&C) |
| | 04/13/93 | \$ | \$ 15.00 (max.) | \$ 35.00 (max.) |
| | 05/06/93 | \$ 22.00 | \$ 15.00 (max.) | \$ 22.00 (max.) |
| Pathology Department, USA HSF | 04/21/92 | \$ 240.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| Pathology Laboratory Associates | 05/22/93 | \$ 200.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| Providence Hospital (Cancer Center) | 07/01-31/92 | \$ 4,301.00 | \$ 4,208.00 | \$ 3,179.00 |
| | 08/04-24/92 | \$ 5,187.50 | \$ 5,123.50 | \$ 4,200.00 |
| | 09/25/92 | \$ 2,023.00 | \$ 2,023.00 | \$ 500.00 |
| | 09/09/92 | \$ 2,035.20 | \$ 2,035.20 | \$ -0- |
| | 09/09/92 | \$ 2,078.00 | \$ 2,078.00 | \$ -0- |
| Providence Outpatient Diagnostics | 07/27/92 | \$ 6.00 | \$ 6.00 | \$ 8.00 |
| | 08/13/92 | \$ 6.00 | \$ 6.00 | \$ 8.00 |
| Radiation Therapy-Oncology, P.C. (Dr. Cotter) | 01/15/93 | \$ 7,697.00 | \$ 7,505.00 (\$75/max. phys.) (\$7,430/radiation) | \$ 5,194.00 (\$174/max. phys.) (\$5,020/radiation) |
| Springhill Diagnostic Radiologists, P.C. | 07/06/92 | \$ 49.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| | 07/08/92 | \$ 33.00 | \$ 15.00 (max.) | \$ 35.00 (max.) |
| Springhill Emergency Physicians | 07/08/92 | \$ 217.00 | \$ -0- (max.) | \$ -0- (max.) |
| Springhill Memorial Hospital | 05/22-29/92 | \$ 9,341.92 | \$ 420.00 (max. x 7 days) | \$ 1,060.00 (max. x 7 days) |
| | 07/06-08/92 | \$ 2,037.43 | \$ 120.00 (max. x 2 days) | \$ 300.00 (max. x 2 days) |
| USAMC | 04/21/92 | \$ 818.50 | \$ 100.00 (max.) | \$ 150.00 (max.) |
| Family Discount Drugs & Variety | 03/04/93 | \$ 97.79 | \$ 97.79 | \$ -0- |
| First Hospital Pharmacy | 09/09/92 | \$ 25.05 | \$ 25.05 | \$ -0- |
| OTHER BENEFITS | | | WHAT LIBERTY NATIONAL WOULD HAVE PAID UNDER OLD POLICY | PAID BY LIBERTY NATIONAL UNDER NEW POLICY |
| First Occurrence Benefit | | | \$ -0- | \$ 2,250.00 |
| GRAND TOTALS: | | \$ 41,268.39 | \$ 24,928.54 | \$ 18,928.50 |

ANNUAL PREMIUM COMPARISON**Edith McAllister****D/B 6/2/32**

| | OLD POLICY Form 7022, Plan 564 Family Issued 4/1/82 Age 50 Bracket 46-50 | 1987 NEW POLICY Form 5GL Individual Issued 2/1/87 Age 54 Bracket 51-64 | 1990 NEW POLICY Form 5GR Individual Issued 3/1/91 Age 58 Bracket 51-65 |
|------|--|--|--|
| 1982 | \$ 109.47 | | |
| 1983 | | | |
| 1984 | | | |
| 1985 | | | |
| 1986 | | | |
| 1987 | | \$ 225.71 | |
| 1988 | \$ 136.84 (effective 8/1/88) | | |
| 1989 | | | |
| 1990 | \$ 183.00 (effective 4/1/90) | \$ 265.00 (effective 4/1/90) | |
| 1991 | \$ 235.00 (effective 4/15/91) | | \$ 308.00 |
| 1992 | \$ 285.00 (effective 4/15/92) | | |

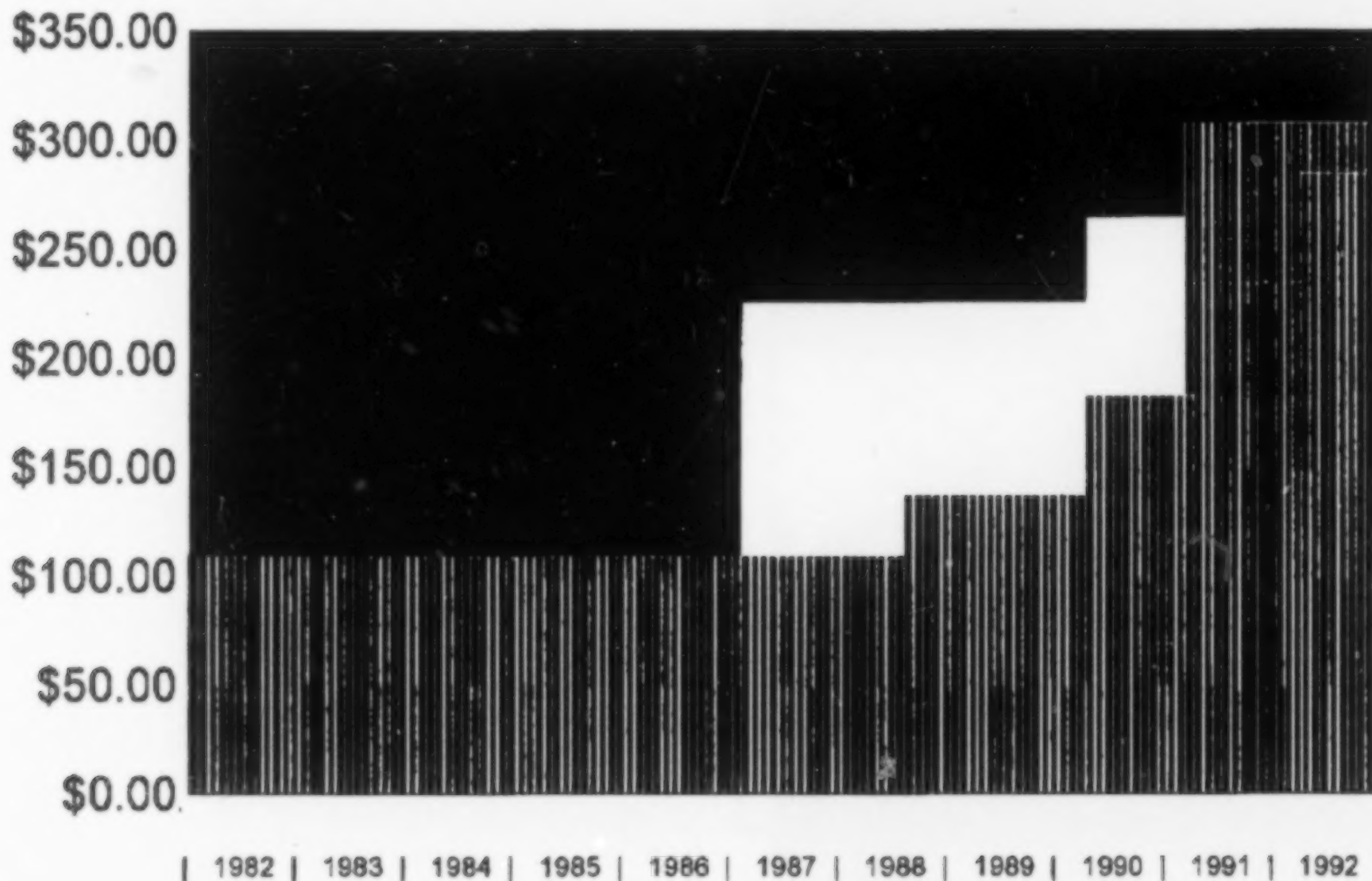
ANNUAL PREMIUM COMPARISON**Ursula Graham****D/B 1/2/52**

| | OLD POLICY Form 7022, Plan 564 Individual Issued 4/1/82 Age 30 Bracket 15-30 | 1987 NEW POLICY Form 5GN Single Parent Issued 2/1/87 Age 35 Bracket 15-35 | 1990 NEW POLICY Form 5GX Individual Issued 4/1/90 Age 38 Bracket 36-50 |
|------|--|---|--|
| 1982 | \$ 46.31 | | |
| 1983 | | | |
| 1984 | | | |
| 1985 | | | |
| 1986 | | | |
| 1987 | | \$ 85.71 | |
| 1988 | \$ 63.15 (effective 8/1/88) | | |
| 1989 | | | |
| 1990 | \$ 89.00 (effective 4/1/90) | | \$ 172.00 |
| 1991 | \$ 116.00 (effective 4/15/91) | | |
| 1992 | \$ 132.00 (effective 4/15/92) | | |

487E

ANNUAL PREMIUM COSTS

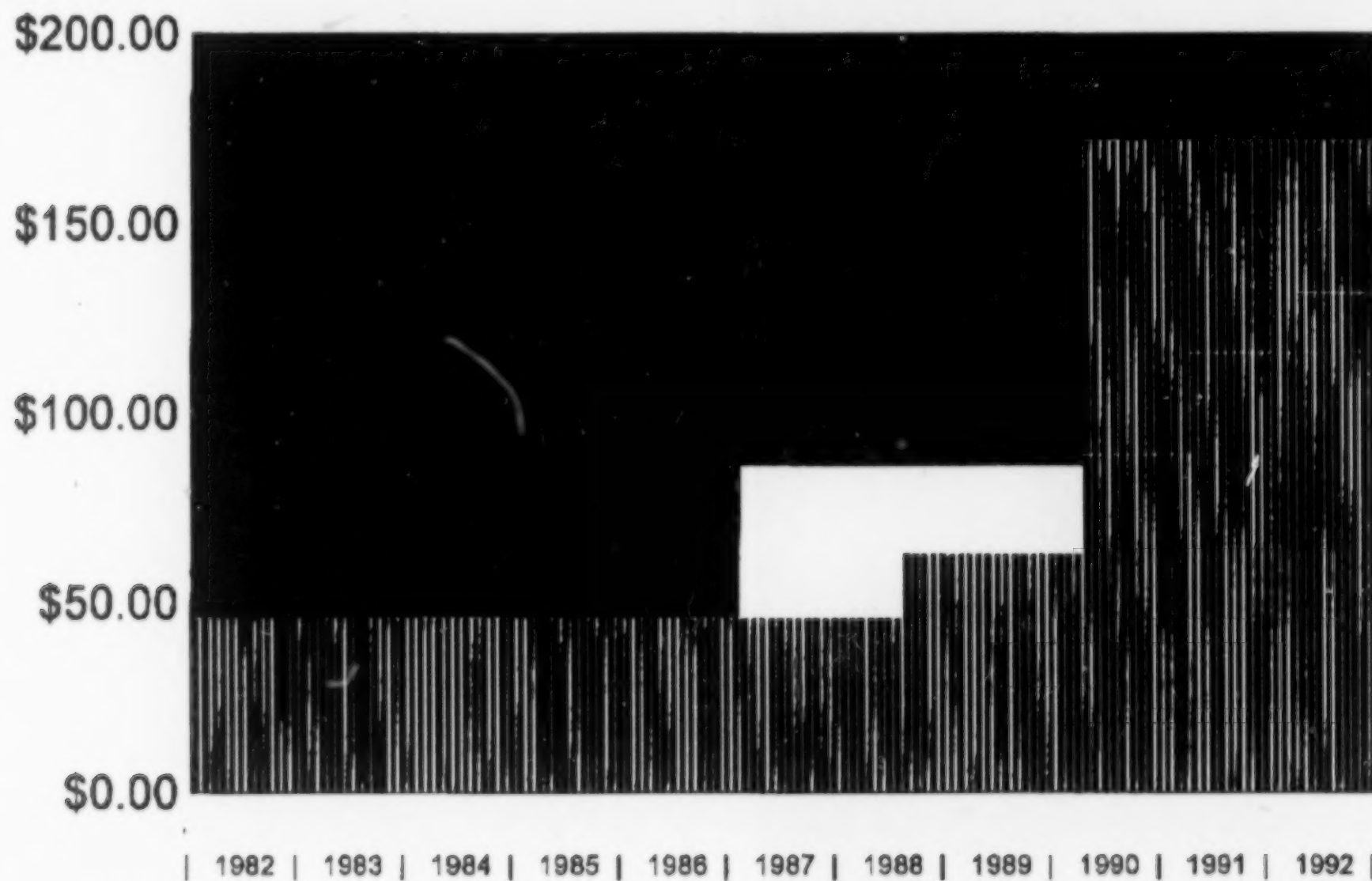
Edith McAllister



■ Old Policy 1987 Policy ■ 1990 Policy

ANNUAL PREMIUM COSTS

Ursula Graham



■ Old Policy 1987 Policy ■ 1990 Policy

DIFFERENCE IN PREMIUMS CHARGED EDITH McALLISTER

| Time Period | No. Months | Annual Premium Old Policy | Annual Premium New Policies | Difference in Annual Premiums | Additional Premium Charged |
|--|------------|------------------------------|--------------------------------|----------------------------------|-------------------------------|
| 2/1/87-8/1/88 | 18 months | \$ 109.47 | \$ 225.71 | \$ 116.24 | \$ 174.36 |
| 8/1/88-4/1/90 | 20 months | \$ 138.84 | \$ 225.71 | \$ 88.87 | \$ 148.20 |
| 4/1/90-3/1/91 | 11 months | \$ 183.00 | \$ 265.00 | \$ 82.00 | \$ 75.13 |
| 3/1/91-4/15/91 | 1 month | \$ 183.00 | \$ 308.00 | \$ 125.00 | \$ 10.41 |
| 4/15/91-4/15/92 | 12 months | \$ 235.00 | \$ 308.00 | \$ 73.00 | \$ 73.00 |
| 4/15/92-10/12/93 | 19 months | \$ 285.00 | \$ 308.00 | \$ 23.00 | \$ 38.37 |
| TOTAL DIFFERENCE IN PREMIUMS CHARGED TO DATE: | | | | | \$ 517.47 |

DIFFERENCE IN PREMIUMS CHARGED URSULA GRAHAM

| Time Period | No. Months | Annual Premium Old Policy | Annual Premium New Policies | Difference in Annual Premiums | Additional Premium Charged |
|--|------------|------------------------------|--------------------------------|----------------------------------|-------------------------------|
| 2/1/87-8/1/88 | 18 months | \$ 48.31 | \$ 85.71 | \$ 39.40 | \$ 59.10 |
| 8/1/88-4/1/90 | 20 months | \$ 63.15 | \$ 85.71 | \$ 22.56 | \$ 37.60 |
| 4/1/90-4/15/91 | 12 months | \$ 89.00 | \$ 172.00 | \$ 83.00 | \$ 83.00 |
| 4/15/91-4/15/92 | 12 months | \$ 118.00 | \$ 172.00 | \$ 56.00 | \$ 56.00 |
| 4/15/92-10/12/93 | 19 months | \$ 132.00 | \$ 172.00 | \$ 40.00 | \$ 63.31 |
| TOTAL DIFFERENCE IN PREMIUMS CHARGED TO DATE: | | | | | \$ 299.01 |

IN THE CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
CLAYTON DIVISION

| | | |
|-------------------------------|---|--------------|
| CHARLIE FRANK ROBERTSON, |) | |
| Individually and on behalf of |) | |
| a class, |) | |
| |) | CIVIL ACTION |
| Plaintiffs, |) | NO. |
| |) | CV-92-021 |
| v. |) | |
| |) | |
| LIBERTY NATIONAL LIFE |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |
| |) | |

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

AFFIDAVIT OF ANTHONY L. MCWHORTER

Before me, the undersigned notary public in and for said county and said state, personally appeared Anthony L. McWhorter, who being known to me and having been first duly sworn and placed under oath, deposes and says as follows:

1. My name is Anthony L. McWhorter. I am Executive Vice President and Chief Actuary of Liberty National Life Insurance Company. I have personal knowledge of the matters set forth in this affidavit based upon my experience as an actuary, my experience as an officer and employee of Liberty National Life Insurance Company, my knowledge of the business and records of Liberty National Life Insurance Company, and otherwise. The

opinions expressed herein are based upon this knowledge and upon my best actuarial judgment, and I hold these opinions to a reasonable degree of actuarial certainty.

2. My education, professional experience, and qualifications as an actuary include the following: I have a B.S. in Mathematics from the University of Alabama (1972) and an M.S. in Actuarial Science from Northeastern University, Boston, Massachusetts (1974). I have been employed by Liberty National in a variety of actuarial capacities since 1972. I was designated a Fellow of the Society of Actuaries (FSA) in 1976 and a member of the American Academy of Actuaries (MAAA) in 1978.

3. I am familiar with the alleged cancer exchange programs at issue in this lawsuit, as well as the various cancer insurance policies which are involved. Beginning in approximately 1969, Liberty National Life Insurance Company began selling certain cancer insurance policies. The following material summarizes the benefits structure of the major plans of cancer insurance sold by Liberty National. The first policies offered by Liberty National (Plans 504, 505, 506, 507 and 508) were guaranteed renewable to age 65. These policies offered coverage for radiation/chemotherapy treatment and prescription drugs without daily, annual or lifetime monetary limits, as well as certain other benefits that were subject to monetary limits. The 1969 series of policies described in this paragraph are "old policies" within the meaning of the June 16, 1993 Stipulation and Agreement of Compromise and Settlement ("the Stipulation") in the above-styled action. Various of the 1969 Series policies were also referred to at various times and in various states as Forms 7003, 7004, 7007, 7008, or as Plans 949, 958 or 959, or as Type 706, 707,

773, or 774. The differing code numbers reflect minor variations such as family versus individual coverage, variations in requirements by insurance departments of different states, weekly versus monthly premium payment, and the like.

4. In 1976, Liberty National introduced a new series of life insurance plans (Plans 501, 502, 509 and 510) which were identical to the 1969 series, except that the policies introduced in 1976 were "guaranteed renewable" for the life of the named insured. Plan 501 was also referred to for some purposes as Form 7012. Plan 502 was also referred to for some purposes as Form 7013. Plan 509 was referred to for some purposes as Type 579, 600, 629, 949, 997, 917, or as Plan 829, or as Form 7011, 579, 600, or 629. Plan 510 was also referred to for some purposes as Type 580, 601, 630, 950, 998, 918, or as Form 7010, 580, 601, or 630. Both the 1969 and 1976 series of policies (Plans 501, 502, 504, 505, 506, 507, 508, 509 and 510) provided reimbursement to the named insured (or his assignee) for the actual cost incurred for radiation or chemotherapy administered to a covered person under the policy. Similarly, both the 1969 and 1976 series policies also provided other benefits, such as hospital confinement benefits, surgical benefits, anesthetist benefits, attending physician and private duty nursing expense benefits, and non-chemotherapy prescription drug benefits, all of which (with the exception of the non-chemotherapy prescription drug benefit) were subject to maximum monetary limits. Both the 1969 and 1976 series of policies are included within the definition of "old" policies for purposes of the proposed settlement. Specimen copies of the 1969 series policies are attached hereto as Exhibit A. Specimen copies of

the 1976 series of policies are attached hereto as Exhibit B. Both the 1969 series and 1976 series of policies described herein are "old policies" within the meaning of the Stipulation.

5. In 1979, Liberty National introduced a third series of policies (Plans 560 and 561) which were guaranteed renewable for the life of the named insured. The 1979 series of policies increased the daily hospital confinement benefit, and imposed lifetime monetary limits on other benefits. Since the 1979 series of policies contained a \$2,500.00 lifetime limit on radiation/chemotherapy benefits and a \$2,500.00 lifetime limit on prescription drug benefits, the 1979 series of policies is *not* included within the definition of "old" policies for purposes of this class action. However, persons insured under 1979 Series policies *were* allowed to exchange their policies for "new" policies under the alleged cancer exchange programs. (By contrast, persons who had incurred claims for internal cancer on any of the "old" policies or under the 1979 series policies were *not* eligible to exchange to "new" policies.) In addition, from 1979 through 1986, Liberty National also sold "Cancer Supplement" policies (Plans 562 and 563) which contained no benefits for radiation or chemotherapy but provided supplemental benefits in other categories, such that, when a "Cancer Supplement" policy was issued to the holder of one of the "old policies," the limits upon daily room benefits, for example, would be increased by a specified amount. The "Cancer Supplement" policies were designed primarily for issuance as an additional, supplemental policy to persons already insured under another

Liberty National policy. The "Cancer Supplement" policies are not included within the definition of "old policies" under the Settlement.

6. In 1982, Liberty National introduced Plans 564 and 565. These policies were guaranteed renewable for the lifetime of the insured. The 1982 series of policies provided benefits for hospital confinement expenses, surgical expenses, anesthetist benefits, attending physician expenses, and private duty nursing expenses, subject to certain daily or "per procedure" monetary limits on certain of said benefits. In addition, the 1982 series of policies (like the 1969 and 1976 series of "old" policies) provided full reimbursement to the named insured (or his assignee) for radiation, chemotherapy, and prescription drug expenses incurred in connection with a covered person's treatment of cancer, without monetary limits. The 1982 series of policies is included within the definition of "old" policies for purposes of this class action and for purposes of the proposed class action settlement. Complete specimen copies of each of the 1982 series policies is attached hereto as Exhibit C. Plans 564 and 565 were also referred to for some purposes as Forms 7022, 7023, 7024 and 7025.

7. All benefits under all of the "old" policies and "new" policies were payable to the named insured on the policy or the named insureds' assignee, regardless of which covered person under the policy received the cancer treatment. New sales of "old" policies ceased on or about August 29, 1986, but "old" policies sold prior to that date remained in force until and unless they were lapsed or exchanged by the named insured (or in the case

of "old" policies renewable to age 65, until the named insured reached age 65).

8. By 1986, Liberty National's agents were receiving customer complaints about the frequency and size of premium increases on the "old" policies which were rising in price cost due to inflation and the lack of any built-in safeguards against any providers who might be inclined to set their charges according to the amount of insurance available. At the same time, Liberty National's competitors were offering more and more products which had more monetary limits together with new and additional kinds of benefits which appeared to be less susceptible to inflation, maximization of fees by some providers, and resultant premium increases for every policyholder.

9. Consequently, on or about August 29, 1986, Liberty National introduced Plans 5GI, 5GJ, 5GK, 5GL, 5GM, and 5GN. Under these "new" policies (as defined in the stipulation), a host of new benefits never before offered by Liberty National cancer insurance policies were provided. For example, the 1986 series "new" policies offered a "first occurrence" benefit consisting of a \$2,000 cash payment to the named insured upon a covered person's first diagnosis of internal cancer, in addition to any other benefits payable. Moreover, the 1986 series of policies offered hospice care benefits not previously offered by any of the "old" policies; benefits for prostheses not previously offered by any of the old policies; an "income replacement benefit" of \$100 per week up to 26 weeks payable in the event a covered person was prevented from earning his normal income due to disability caused by cancer (a benefit never before offered by any Liberty National cancer policy); generally higher surgical benefits

and higher hospital confinement benefits, anesthetist benefits, attending physician expense benefits, and private duty nursing expense benefits than had ever been offered in any other Liberty National cancer insurance policy. In addition, for the first time ever, the 1986 series of policies provided certain hospital confinement benefits for the treatment of various "dreaded diseases" other than cancer, including cystic fibrosis, encephalitis, meningitis, sickle cell anemia, multiple sclerosis, muscular dystrophy, tuberculosis, and Lou Gehrig's disease, among others. The 1986 series "new" policies also provided coverage for radiation/chemotherapy treatment subject to a monetary limit of \$500 per day (with no maximum number of days), and coverage for prescription chemotherapy drugs up to \$8,000 per year, with no lifetime maximum. Coverage for non-cancer fighting prescription drugs prescribed in connection with cancer treatment (such as anti-nausea medication) was not provided under the "new" policies introduced in 1986. Specimen copies of the 1986 series of policies are attached hereto as Exhibit D.

10. In 1990, Liberty National introduced a second series of "new" policies (as defined in the Stipulation), including plans 5GR, 5GX, 5GS, 5GY, and 5GT, and 5GZ. These "new" policies were substantially similar to the 1986 series of "new" policies, except that they provided a higher first-occurrence benefit of \$2,250, together with higher benefits than provided by the 1986 series policies for hospice care, prosthesis, outpatient ambulatory surgical center care, hospital confinement expenses, anesthetist expenses, attending physician expenses, private duty nursing expenses, and prescription chemotherapy drugs,

and a higher maximum surgical benefit schedule. These 1990 "new" policies were marketed as the "Cancer Care Plus" series.

11. In addition to the "Cancer Care Plus" series of policies mentioned above, Liberty National also introduced in 1990 a series of "reduced benefit/reduced premium" versions of its 1990 series of policies. The benefits provided by each policy were generally similar, but with lower maximum limits and correspondingly lower premiums. These plans were marketed as the "senior cancer care" and "cancer care" policies, respectively, and were not eligible for treatment as an exchange for purposes of agent commissions during any of the alleged cancer exchange programs. The primary 1990 series of policies described in paragraph 10 above (Plans 5GR, 5GX, 5GS, 5GY, 5GT, and 5GZ) were marketed as the "Cancer Care Plus" policies. The "Cancer Care" and "Senior Cancer Care" policies were developed as a low-cost alternative to persons who desired one of the "new" policies but preferred lower benefits and lower premiums than offered by the "Cancer Care Plus" products. The "Cancer Care" product was essentially identical to the 1986 series of new policies, except that the "First Occurrence" benefit was \$1,000. The "Senior Cancer Care" policies also provided a \$1,000 "First Occurrence" benefit, and provided lower monetary limits for hospital confinement expenses, attending physician and private duty nursing expenses, radiation, chemotherapy, and prescription chemotherapy drugs, all at a much lower premium than the "Cancer Care plus" version of the 1990 series policy. Complete specimen copies of each of the 1990 series of "new"

policies described in paragraphs 10 and 11 of this affidavit are attached hereto as Exhibit E.

12. A chart summarizing the benefits provided by each of the 1969, 1976, 1982, 1986, and 1990 (Cancer Care Plus) series policies described above is attached hereto as Exhibit F. Persons insured under "old policies" (and persons insured under the 1979 series "limited" policies) were allowed to exchange their "old policies" (or their 1979 Series "limited" policies) for one of the "new policies" only if they had *not* suffered internal cancer prior to the exchange. An exchange to a "new policy" resulted in cancellation of her "old policy", but persons exchanging to a "new policy" had the option to keep any "cancer supplement."

13. As shown by Exhibit G attached hereto, during the entire period from August 29, 1986 through September 24, 1993, only 16 persons who have submitted cancer claims under the 1986 series policies have ever exceeded the \$8,000 annual monetary limits on prescription chemotherapy drugs under those policies; and only 9 cancer claimants have ever exceeded the \$10,000.00 annual monetary limits on prescription chemotherapy drugs under any of the 1990 "Cancer Care Plus" series of "new" policies described in paragraph 10 of this affidavit.

14. The 1982 series "old" policies provide the highest level of benefits of any of the "old" policies. As shown by the chart attached hereto as Exhibit H, from the inception of the 1982 series through December 31, 1986, approximately 73% of these policyholders who submitted cancer claims under the 1982 series "old" policies

received no radiation or chemotherapy treatment for their cancer whatsoever.

15. As shown in the chart attached hereto as Exhibit I, during the period from August 29, 1986 through September 24, 1993, approximately 65% of the "old" cancer policies on which initial claims were paid during that time period submitted no claims for radiation or chemotherapy treatments whatsoever. Moreover, this same chart shows that an additional 16.8% of all policyholders who submitted claims under "old" policies during this time period received radiation and chemotherapy treatment at a total charge by the providers of \$6,000 or less. In my opinion as an actuarial expert, and based upon my experience with the policies at issue and Liberty National's claims experience under those policies, it would be highly unlikely for any person who had radiation and chemotherapy charges which did not exceed \$6,000 to receive fewer total dollars in benefits under the "new" policy than under any of the "old" policies for that person's overall cancer treatment. I base this conclusion on the fact that, on average, the \$500.00 daily limits on radiation and chemotherapy under "new" policies is currently resulting in the payment of 68% of the aggregate radiation and chemotherapy treatment charges submitted (See paragraph 16 and Exhibit J). Thus, for a person who has \$6,000.00 in radiation and chemotherapy charges, the "new" policy can be expected to provide radiation and chemotherapy benefits at least in excess of \$4,000.00. Quite often, a person will have radiation claims of \$6,000 or less spread over 12 or more days, such that *all* radiation and chemotherapy treatments under the "new" policy may be within the \$500.00 daily limits. Nevertheless,

assuming that only 68% of any charge of \$6,000.00 for radiation and chemotherapy were paid by the "new" policies (see paragraph 16, below), the difference would be more than made up by the "first occurrence benefit" alone, a benefit which is provided by the "new" policies but not provided by the "old" policies. Therefore, I conclude to a reasonable degree of actuarial certainty that *in excess* of 82% of all cancer claimants would have received more total dollars under their "new" policy than would be received under an "old" policy for the same overall cancer treatment. The further analysis set forth below demonstrates that the actual percentage is likely much higher than 82%.

16. Attached hereto as Exhibit J is an analysis of incoming claims for radiation and chemotherapy treatments processed during an approximate two-month period during the third quarter of 1993. The analysis relates only to those incoming cancer claims that included claims for radiation or chemotherapy treatment. It demonstrates that approximately 68% of the total dollar amount of all radiation and chemotherapy charges currently being submitted would be paid under the \$500.00 limit. This Exhibit also shows that, during the sample period, claims were submitted for 5,945 days of radiation and chemotherapy treatment, with approximately 80% of those days representing treatments which were less than \$500.00. In my opinion as an actuarial expert, and based upon my experience with the policies at issue and Liberty National's claims experience under those policies, the shortfall in radiation and chemotherapy benefits which may result from the \$500.00 daily limits is *more* than offset in virtually all cases by the generally higher surgical

benefits and the higher hospital confinement, attending physician, and private duty nursing benefits under the "new" policies, and by the first occurrence benefit, income replacement benefits, prosthesis benefits, hospice care benefits, and other new benefits provided by the "new" policies that were not provided by any of the "old" policies.

17. In my opinion as an actuarial expert, and based upon my knowledge of the Liberty National policies involved and Liberty National's claims experience under the policies involved, the vast majority of persons who have radiation and chemotherapy claims in excess of \$6,000.00 would still receive more total dollars in benefits under the "new" policies than under any of the "old" policies for their overall cancer treatment. I base this opinion and conclusion upon the fact that the "new" policies contain higher hospital benefits, generally higher surgical benefits, higher attending physician benefits, higher anesthetist benefits, and higher private duty nursing benefits than the "old" policies, and upon the fact that the "new" policies contain prosthesis benefits, hospice benefits, and income replacement benefits not contained in the "old" policies, along with the "first occurrence" and other "new benefits" as shown on Exhibit F. Indeed, from my experience, persons who receive radiation and chemotherapy treatment in excess of \$6,000.00 often have lengthy hospital stays resulting in hundreds (or thousands) of dollars in additional hospitalization, surgical, attending physician, and private duty nursing benefits under the "new" policy in excess of what would have been provided under the "old" policy, and

hundreds (or thousands) more dollars in income replacement benefits under the "new" policy, in addition, of course, to the "first occurrence benefit." In short, in all but the most unusual cases, the dollar amount of "new" and higher benefits under the "new" policy that are actually paid increase as the amount of radiation or chemotherapy increases, resulting in the payment of more total dollars under the "new" policy than under the "old" policies in the vast majority of cases, despite the \$500.00 daily limits on radiation and chemotherapy and the absence of coverage under the "new" policies for non-chemotherapy prescription drugs. In my best judgment, an overwhelming majority of cancer claimants with more than \$6,000.00 in radiation and chemotherapy treatments would receive more total dollars under the "new" policies than would be received under any of the "old" policies for the same overall cancer treatment.

18. Attached hereto as Exhibit K is a model which I prepared indicating my analysis of the percentage of cancer claimants who have a reasonable likelihood of receiving more total dollars under the 1986 series "new" policies (which provided lower benefits than the 1990 series "new" policies) than under the "old" policies. This model analyzes 13,045 "old" policies on which initial claims were paid from January, 1986, through September, 1992. Those "old" policies on which claim payments were made for radiation, chemotherapy, and prescription drug treatments were arranged from the smallest dollar amounts of radiation, chemotherapy, and prescription drug treatment charges up through those policies with the largest dollar amount of such charges. The range of actual charges for radiation, chemotherapy, and prescription

drug treatment on the "old" policies was used to estimate the range of actual charges on 10,989 "new" exchanged policies on which initial claims were paid during the same time period of January, 1986, through September, 1992. The average of all benefits paid within each category on the "new" policies was compared to the average of all benefits paid under the corresponding category under the "old" policies. This comparison indicates that approximately 98% of all cancer claimants under "new" policies would probably have received more *total claim* dollars under the "new" policies than would have been received under the "old" policies for the same overall claims.

19. Attached hereto as Exhibit L is a display of average dollar amounts of claims paid, broken down between those policies on which there were no claims payable for radiation and chemotherapy benefits and those policies on which claims were payable for radiation and chemotherapy benefits. This data reveals that the 1986 series of "new" policies pays a greater average dollar amount of claims than does the "old" policies, both in those situations where radiation and chemotherapy treatments were used and on those claims where such treatments were not used.

20. The total number of old policies in force (or in the grace period) as of August 29, 1986 was 396,712; the total number of "old" policies in force as of September 24, 1993 was 46,600; the total number of "new" policies in force as of September 24, 1993 was 311,857; the total number of "new" policies (including new issues and exchange plans) on which claims have been paid through

September 24, 1993 was 29,802; the total dollars in benefits that had been paid out under "new" policies since August 29, 1986 was \$183,811,276.42, as of September 24, 1993; and the approximate number of "old" policies which were exchanged for "new" policies according to Liberty National's records since August 29, 1986 is 206,255.

21. Based upon my experience and qualifications as an actuary, and my knowledge of Liberty National's various cancer policies and Liberty National's claims experience under those policies, it is my best judgment that the number of class members who submitted claims for internal cancer under 1986 series exchanged policies and received *fewer* total dollars in benefits under "new" policies than would have been received for the same treatment under the applicable "old" policies is approximately 200 to 240. This represents approximately 2% of the claimants under the 1986 series exchanged policies. In my best judgment, approximately 70 to 110 class members who submitted claims for internal cancer under 1990 series exchanged policies would have received fewer total dollars in benefits under their "new policy" than would have been received for the same treatment under their "old policy." However, there is no way to calculate an exact number of persons who received fewer total dollars under "new" policies than would have been received for the same cancer treatment under the applicable "old" policies, without reprocessing every cancer claim ever submitted under a "new" policy by hand, through manual review of claims records, hospital records, provider records, and the like, together with manual calculations of the benefits that would have been

paid under the applicable "old" policy as compared with the actual benefits paid under the applicable "new" policy for each claimant. The necessary information to make these calculations is not contained in any of Liberty National's computer records, but is stored in paper records consisting of the claims information actually submitted by the claimant at the time of the claim. This claims information is stored in chronological order by the date the claim was processed, and *not* in alphabetical order by the name of the claimant. To manually determine the exact number of cancer claimants who received fewer dollars in benefits under their applicable "new" policies than would have been received under the applicable "old" policies for the same overall cancer treatment, through manual comparison for each claimant who ever submitted a claim under the "new" policies, would literally take years to complete. The estimates stated herein have no role in determining actual eligibility to share in the monetary settlement pools created by the Settlement. The Proof of Claim procedure established by the Court will determine the exact number of persons eligible to share in those monetary pools.

22. Liberty National has not implemented a premium increase for "old" policies or "new" policies during 1993 because of the pendency of this class action proceeding and the publicity surrounding it. However, in my opinion as an actuarial expert, rate increases are justified and could have been implemented on June 1, 1993 based upon the current loss ratios. If the class action settlement is approved, no premium increase can be implemented on "old" or "new" policies before January 1, 1995. By this time, in my opinion as an actuarial expert, the actuarially

justifiable premium increase for many of the policies will be such that any premium increase will have to be "phased in" over time in order to avoid an inordinately high rate of policy terminations by insureds as a result of premium increases.

23. Attached hereto as Exhibit M are my calculations of the cost to Liberty National of implementing the proposed settlement now under consideration by the Court. Based upon the calculations shown in Exhibit M, I estimate the total cost to Liberty National of implementing the proposed settlement, assuming the settlement is approved and takes effect, to be in the range of \$33.9 million to \$49.9 million, based upon my best judgment.

24. Attached hereto as Exhibit N is a chart showing the dates of inception of claims under the 1986 series of "new" policies.

25. Liberty National makes a significant contribution to the economy of the State of Alabama. Liberty National has in excess of 1,500 full-time employees (including agents) in the State of Alabama who are dependent on the Company for their livelihood, and in excess of 3,400 such employees overall. In calendar year 1992, the total compensation paid to Liberty National employees (including agents) in the State of Alabama was approximately \$67.5 million. Liberty National paid premium taxes, real estate taxes, Guaranty Fund assessments, and other taxes in the State of Alabama in 1992 in an aggregate amount of more than \$3.6 million. The amounts withheld from the pay checks of the company's

employees in the State of Alabama to pay state withholding taxes and various city and county occupational taxes amounted to approximately \$2.7 million in 1992.

26. Attached hereto as Exhibit O is a chart displaying Liberty National's estimated net earnings from its cancer line of insurance for the years 1987 through 1992 determined on a basis consistent with that used for reporting to shareholders. The aggregate net earnings in this six year period is approximately \$47 million, or average earnings of approximately \$8 million per year. The net earnings displayed are the aggregate net earnings for the entire cancer line of business including all of the policies encompassed by the class action as well as a substantial block of cancer business which is not at issue in this litigation. There are approximately 400,000 past and present policyholders (plus their insured family members) who are class members. The aggregate net earnings derived by the company during the referenced six year period amounts to less than \$125 per policyholder in the class.

27. Attached hereto as Exhibit P is the cover page and balance sheet from Liberty National's statutory financial statements for the year ended December 31, 1992 as reported to the Insurance Department of the State of Alabama and the other jurisdictions where Liberty National is licensed to conduct the business of insurance. The total capital and surplus of Liberty National Life Insurance Company as shown on Line 37 of the page entitled "Liabilities, Surplus and Other Funds" as of December 31, 1992 was \$326,802,539. While this capital and surplus (i.e., statutory net worth) would be

exhausted and exceeded if one were to assume a monetary award of \$1,000.00 for each class member (or if one were to assume a succession of \$1,000,000.00 punitive damage awards to 327 individual class members), I do not believe that the capital and surplus of the company is truly in danger of being exhausted in that the "new" policies are better than the "old" policies, and it is my belief that Liberty National will not ultimately be found liable by the Alabama Supreme Court for the damage claims asserted by individual class members.

28. Further deponent sayeth not.

/s/ Anthony L. McWhorter
Anthony L. McWhorter

Sworn to and subscribed before this 13 day of
December, 1993.

/s/ Mary M. May
Notary Public

My Commission Expires 11-6-95

[SEAL]

SUMMARY OF MAJOR BENEFITS UNDER VARIOUS LIBERTY NATIONAL CANCER POLICIES

EXHIBIT E

581

| | OLD Policy (1969 Series) ¹ | OLD Policy (1976 Series) ² | OLD Policy (1982 Series) ³ | NEW Policy (1986 Series) ⁴ | NEW Policy (1990 Series) ⁵ |
|--|---|---|--|---|---|
| Renewable to | Age 65 | For life | For life | For life | For life |
| First Occurrence Cash Payment for 1st cancer diag. | NONE | NONE | NONE | \$2,000 | \$2,250 |
| Hospice care | NOT COVERED | NOT COVERED | NOT COVERED | \$50/day | \$75/day |
| Prosthesis | NOT COVERED | NOT COVERED | NOT COVERED | \$500 each (2) | \$750 each (2) |
| Income Replacement Benefit | NONE | NONE | NONE | \$100/week (26 weeks) | \$100/week (26 weeks) |
| Dread Disease Benefits ⁶ | NO | NO | NO | YES | YES |
| Outpatient Ambulatory Surg Center | \$100/day | \$100/day | \$100/day | \$100/day | \$150/day |
| Hospital Confinement | \$30/day | \$30/day | \$60/day | \$100/day for 1st 90 days, then \$250/day | \$150/day for 1st 90 days, then \$400/day |
| Surgical Benefit Up To: | \$400 per op. | \$400 per op. | \$800 per op. | \$1,000 per op. | \$2,000 per op. |
| Anesthetist Benefit Up To: | \$75 per op. | \$75 per op. | \$100 per op. | 25% of surg. ben. | 25% of surg. ben. |
| Attending Physician | \$10/day | \$10/day | \$15/day | \$25/day | \$35/day |
| Private Duty Nurse Expense | \$25/day | \$25/day | \$30/day | \$50/day | \$75/day |
| Radiation and chemotherapy | 100% (no max) | 100% (no max) | 100% (no max) | Up to \$500/day (no max. days) | Up to \$500/day (no max. days) |
| Prescription Chemotherapy Drugs | 100% (no max) | 100% (no max) | 100% (no max) | Up to \$8,000 per year, no lifetime max | Up to \$10,000 per year, no lifetime max |
| Non-chemo- therapy prescrip- tion drugs ⁷ | 100% (no max) | 100% (no max) | 100% (no max) | NOT COVERED | NOT COVERED |
| Blood (excluding lab charges) | 100% (no max) | 100% (no max) | 100% (no max) | 100% (no max) | 100% (no max) |
| Additional Benefits | \$100/hosp. admission; transportation | \$100/hosp. admission; transportation | Transportation | Gov't hosp. benefit; transportation | Gov't hosp. benefit; transportation |

¹ Plans 505 (Family) and 506 (Single Parent)

² Plans 509 (Family) and 510 (Single Parent)

³ Plans 564 (Single Parent) and 565 (Family)

⁴ Plans 501/SGL (Individual), 5 GJ/SGM (Family), 5GK/SGN (Single Parent)

⁵ Plans 50R/SOX (Individual), 5 OS/SOY (Family), and 5 OT/SGZ (Single Parent)

⁶ Dread Disease Benefit provides the applicable hospital room benefits for the following diseases (other than cancer): Cystic Fibrosis, Diphtheria, Encephalitis, Lou Gehrig's Disease, Meningitis, Multiple Sclerosis, Muscular Dystrophy, Osteomyelitis, Poliomyelitis, Rabies, Scarlet Fever, Sickle Cell Anemia, Small Pox, Tetanus, Tuberculosis, Tularemia, and Typhoid Fever. Only the "new policies" offer this benefit.

IN THE CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
CLAYTON DIVISION

| | | |
|-----------------------------|---|------------------|
| CHARLIE FRANK |) | CONFIDENTIAL |
| ROBERTSON, individually and |) | |
| on behalf of a class |) | |
| Plaintiffs, |) | CIVIL ACTION NO. |
| v. |) | CV-92-021 |
| LIBERTY NATIONAL LIFE |) | |
| INSURANCE COMPANY, |) | CONFIDENTIAL |
| Defendant. |) | |
| STATE OF ALABAMA |) | |
| COUNTY OF JEFFERSON |) | |

REBUTTAL AFFIDAVIT OF
ANTHONY L. MCWHORTER

Before me, the undersigned notary public in and for said county and said state, personally appeared Anthony McWhorter, who being by me first duly sworn, deposes and says as follows:

1. My name is Anthony McWhorter. My education, experience, and employment information is accurately set forth in my previous affidavits.

2. Based upon presently available year-end financial information pertaining to Liberty National Life Insurance Company, the estimated net earnings of Liberty National Life Insurance Company from *all* cancer insurance products (including policies outside the class and insureds outside the class) during 1993 was approximately \$4.4

million. This brings the total estimated net earnings of Liberty National Life Insurance Company on *all cancer products* (not just class members' policies) for the years 1987 through 1993, inclusive, to an aggregate total of approximately \$51.3 million. These figures are accurate based upon my best judgment. Liberty National does not keep precise separate totals of its earnings from cancer products, but Liberty National does keep exact information as to its overall earnings from all lines of business combined. The above estimates of net earnings have been derived by utilizing the actual gross premiums from all cancer products, and then allocating to the cancer line of business a percentage of the overall expenses of the company as a whole – namely, the percentage that is equivalent to the proportion of (a) total premiums from cancer products to (b) total premiums received from all products. In addition, the above estimates include an allocation of investment income to the cancer line of business based upon the actual policy reserves held on account of the entire cancer line of business, and the company's overall net rate of return on its investments.

3. The aggregate estimated net earnings reflected above are *not limited to earnings from the cancer policies of class members*. Included in these aggregate totals are earnings derived from a very large number of persons who never purchased any cancer policy from Liberty National until after 1986 (and who therefore would not be members of the class and would not have been affected by the cancer exchange program). Also included in these aggregate net earnings are the earnings derived from the 1979 series policies, which are not included within the definition of "old policies" or "new policies" for purposes of the

class action. Also included in these net earning figures are the earnings derived from "cancer supplement policies" which do not fit the definition of "old policies" or "new policies" under the settlement. Also included in these aggregate figures are earnings derived from the cancer policies of persons who may have once owned an "old policy" prior to August 29, 1986, but did not have that "old policy" in force or in the grace period on August 29, 1986, and who thereafter purchased a "new policy". Such persons would not be class members under the terms of the class definition. Also included in these net earnings figures are earnings derived from persons who never owned a "new policy." Finally, these net earnings include approximately \$52.3 million in aggregate gross investment income (or \$34.0 million in after-tax investment income) from the investments of Liberty National Life Insurance Company.

4. Since August 29, 1986, approximately 206,255 old policies were formally exchanged for "new policies". By contrast, approximately 426,312 new policies were issued on a "new issue" basis, almost all of which would have been issued to persons who are not in the class.

5. In my best judgment, only approximately 40.5% of the aggregate cancer premium income of Liberty National Life Insurance Company for the years 1987 through 1993 is attributable to "exchanged" policies. This represents more than just premiums attributable to the new policies of class members, since it would include premiums received under a policy exchanged from a previous policy that was not within the definition of an "old policy" – e.g., where the exchange was made from a

1979 series policy containing limits on radiation and chemotherapy. Since Liberty National Life Insurance Company seeks to achieve generally similar profit margins on all of its cancer plans over the lifetime of that plan, it is fair to approximate the net earnings of a sub-group of business within the cancer line based upon the premium income of that sub-group. Furthermore, the calculation of net earnings on sub-groups within the cancer line of business would be a very complicated, arduous, and time-consuming task if a more refined approach were taken. Given the time constraints involved, I believe my approach of relating net earnings to premiums is reasonable and yields a result that reasonably approximates the result that would be obtained from a more refined and detailed methodology.

6. Based on the foregoing, in my best judgment, only approximately 40.5% of the aggregate net earnings of Liberty National Life Insurance Company from its cancer products for the years 1987 through 1993 are attributable to exchanged policies. This means that approximately \$20.4 million in net earnings are attributable to the exchanged policies. Moreover, it would not be accurate to say that all of this amount represents Liberty National's "profit from the cancer exchange program." For example, for persons who exchanged to the "new policy", much of the premium income received from those persons would have been received *even if the exchange had not taken place* - e.g., the premiums on the class members' "old policies" would have been received if there had been no exchange, and this would offset much of the premiums actually received on exchanged policies. *Even assuming that only 60% of the total premiums*

actually received on the exchanged policies would have been received anyway if the old policies had not been exchanged, then the net earnings attributable to "the exchange program" would be reduced to approximately \$8.2 million. Therefore, most of the earnings derived from class members' policies since 1986 cannot fairly be deemed "profit from the cancer exchange program." Nevertheless, even utilizing the total estimated aggregate net earnings on all exchanged policies since 1986 (\$20.4 million), the cost of the proposed settlement to Liberty National already *substantially exceeds* any and all profit that could possibly have been derived from Liberty National Life Insurance Company from the exchanged policies of class members, much less as a result of the cancer exchange program.

7. Although the earnings derived from the old policies of class members do not represent "profit from the cancer exchange programs," approximately 22.5% of the \$51.3 million in aggregate net earnings on *all cancer products* referenced above (or \$12.7 million) are attributable to the "old policies" of class members. Even if 100% of the net earnings on all class members "old policies" are added to 100% of the *total* net earnings on class members' exchanged policies, the total estimated net earnings figure that results (\$33.1 million) is still substantially *exceeded* by the costs of the proposed settlement.

8. Liberty National Life Insurance Company implements premium increases for all customers in all states based upon the criteria used by the most restrictive state regulatory agency in which Liberty National Life Insurance Company does business. The State of Florida, for example, utilizes strict criteria and must approve all rate increases through its Department of Insurance. It is my

understanding that the State of Alabama, on the other hand, reserves an inherent and broad discretionary power to disapprove or rescind a rate increase that is judged contrary to public policy. Moreover, in justifying a rate increase, Liberty National cannot go below what is known in the industry (and in the insurance regulations of many states) as a "minimum acceptable loss ratio" in computing a requested rate increase. Therefore, Liberty National cannot and will not recover the costs of the \$1 million and \$3 million pools; cannot and will not recover the cost of attorneys' fees paid to class counsel under the settlement; and cannot and will not recover the cost of restitution by means of future premium increases. Liberty National will, however, attempt to achieve or approach the minimum acceptable loss ratio permitted by the most restrictive state regulatory agency among the states in which it does business. While Liberty National will use the claims and premium experience of class members, consistent with the pooling concepts embodied in the Settlement Agreement, in computing loss ratios and future requested premium increases, Liberty National *cannot and will not go below the minimum acceptable loss ratios* in computing future rate increases or requests for rate increases. In my opinion as an actuary, *only by going below the minimum acceptable loss ratios* could Liberty National recover the cost of premiums lost by virtue of the court-ordered premium freeze or other costs of this settlement by means of future premium increases.

9. All items of income attributable to the entire cancer line of business are taken into account in the aggregate net earnings figures set forth herein and in the

aggregate net earnings figures contained in my prior affidavits.

10. Liberty National establishes policy reserves for its cancer line of business as required by the applicable statutory laws and regulations of Alabama and the various other jurisdictions where it is licensed to conduct the business of insurance. The policy contracts themselves make no reference to reserves, nor do the cancer policyholders have an equity or "cash value" in their policies such as exists in individual life insurance contracts. Cancer policy reserves are established in accordance with applicable law to assure that adequate funds are available to meet the company's financial obligation to make timely claim payments. The policy reserve on a specific cancer policy is not released merely by the payment of claims on that policy, even if hundreds of thousands of dollars are paid out on that specific policy. The reserves relating to a specific policy are released only upon the termination of that policy, regardless of the reason for the termination. The release of the policy reserve when a cancer policy terminates serves to reduce the loss ratio computed on the plan of insurance to which that policy belongs, thereby reducing the potential for subsequent premium increases on that policy group.

11. I was present during the trial of *Edith McAllister v. Liberty National*. I personally heard Mr. Norman Wal-drop, in closing argument, ask the jury to "punish" Liberty National not only for Edith McAllister, but for effects of the cancer-exchange program upon "the thousands of other Edith McAllisters" affected by the cancer exchange program, to the best of my recollection.

Further deponent sayeth not.

/s/ Anthony L. McWhorter
Affiant

Sworn to and subscribed before
this 26th day of January, 1994.

/s/ Linda H. Halsomback
Notary Public
[SEAL]

IN THE CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
CLAYTON DIVISION

| | | |
|---------------------------------|---|---------------|
| CHARLIE FRANK ROBERTSON, |) | |
| individually and on behalf of a |) | |
| class, |) | CIVIL ACTION |
| |) | NO. CV-92-021 |
| Plaintiffs, |) | |
| v. |) | |
| LIBERTY NATIONAL LIFE |) | |
| INSURANCE COMPANY, |) | |
| Defendant. |) | |

AFFIDAVIT OF THOMAS E. HAMBY

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

Before me, the undersigned notary public in and for said county and said state, personally appeared Thomas E. Hamby, who being known to me and having been first duly sworn, deposes and says as follows:

1. My name is Thomas E. Hamby. I am Vice President - Policy Benefits of Liberty National Life Insurance Company ("Liberty National", and have held that position since 1991. Before that, I was Second Vice President - Policy Benefits, and I have been employed by Liberty National since 1968. I have personal knowledge of (and access to business records of Liberty National concerning) the matters set forth in this affidavit, and, subject to

any inadvertent, undiscovered or typographical errors or omissions, the documents attached hereto accurately summarize the matters they purport to show based upon information obtained from the business records of Liberty National, to the best of my knowledge, information and belief. The claims information submitted by each insured identified herein is too voluminous to attach to this affidavit, but will be made available for review by the Court and others upon request (subject to the protective order heretofore entered by the Court) at the Fairness Hearing.

2. I (and other Liberty National claims personnel working under my supervision) have reviewed the past benefit claims submitted by each of the following persons under their Liberty National cancer insurance policies:

Willard Price
Theda S. Enfinger (Thomas E. Enfinger, patient)
Betty P. Connell
Grace Taylor
Albert Adams
Robert J. Baggett (Jane S. Baggett, patient)
Joseph Broadus
Pamela Davis (Stanfield) – (Scott L. Davis, dependent, patient)
Janice Lane
Francis McDonald
Edith White
Brenda Havard
Edward Moon
Ira Minyard
Nell E. Dismukes
John Hawsey, Jr.
Norris Woodard
Talmadge Allen

Norma Perkins
Bernard Perkins
Alpheus Curtis

It is my understanding that these persons have intervened in this lawsuit, filed objections in this lawsuit, or filed separate actions after March 10, 1993, and that each of them have stated or suggested (in pleadings or on the face of their objections heretofore submitted to the Court in the above-styled action) that they suffered cancer during the period their "new policies" (as that term is defined in the Stipulation and Agreement of Compromise and Settlement) were in force. While some of these persons may not yet have submitted Proof of Claim Forms, I (and persons working under my supervision) have reviewed the benefit claims and documentation originally submitted by each of the foregoing persons at the time of their cancer treatment, as well as the records of Liberty National's payment of benefits on those claims, for the purpose of determining which of them are class members who submitted cancer claims under new policies and received fewer total dollars in benefits under their new policies than would have been received had those same claims been submitted under each individual's "old policy" (as that term is defined in the Stipulation). Complete copies of the claims information submitted to Liberty National by each of the foregoing individuals will be made available for review by the Court and counsel for class members (subject to execution of the protective order heretofore entered by the Court), but the data is too voluminous to attach to this affidavit. The charts attached hereto accurately summarize and reflect the comparison they purport to show with regard to each of the persons

referenced in the charts, to the best of my knowledge and belief. According to Liberty National's records, only 3 of the 21 persons listed above are class members who received fewer dollars for cancer claims made under their "new policies" than would have been received had the same claims been submitted under their respective "old policies" – namely, Pamela Scott Davis (Stanfield), Edith White, and Brenda Havard.

3. As shown by the chart attached hereto as Exhibit A, Willard Price has (to date) received more total dollars under his "new policy" for the cancer treatment claims submitted than would have been received for those same claims under his previous "old policy." Specifically, Mr. Price has received benefits under his "new policy" totalling \$10,142.64, compared to \$6,103.79 which he would have received if those same claims had all been submitted under his "old policies."

4. As shown by the chart attached hereto as Exhibit B, Theda S. Enfinger and Thomas E. Enfinger have received more total dollars under their new policy for the cancer treatment claims submitted (on behalf of patient Thomas E. Enfinger) than would have been received for those same claims under their previous old policy. Specifically, the Enfinger received benefits under their "new policy" totalling \$10,397.40, compared to \$9,709.50 which they would have received if those same claims had all been submitted under their "old policy."

5. As shown by the chart attached hereto as Exhibit C, Betty Connell has (to date) received more total dollars under her new policy for the cancer treatment claims submitted than would have been received for those same

claims under her previous old policy. Specifically, Ms. Connell has received benefits under her "new policy" totalling \$24,451.82, compared to \$20,395.05 which she would have received if those same claims had all been submitted under her "old policy."

6. As shown by the chart attached hereto as Exhibit D, Albert Adams has (to date) received *more* total dollars under his new policy for the cancer treatment claims submitted than would have been received for those same claims under his previous old policy. Specifically, Mr. Adams has received benefits under his "new policy" totalling \$16,606.74, compared to \$6,593.00 which he would have received if those same claims had all been submitted under his "old policy."

7. As shown by the chart attached hereto as Exhibit E, Grace Taylor has (to date) received more total dollars under her new policy for the cancer treatment claims submitted than would have been received for those same claims under her previous old policy. Specifically, Ms. Taylor has received benefits under her "new policy" totalling \$3,827.50, compared to \$1,153.00 which she would have received if those same claims had all been submitted under her "old policy."

8. As shown by the chart attached hereto as Exhibit F, Robert J. Baggett III and Jane S. Baggett have (to date) received *more* total dollars under their new policy for the cancer treatment claims submitted by them (on behalf of patient Jane S. Baggett) than would have been received for those same claims under their previous old policy. Specifically, the Baggetts have received benefits under their "new policy" totalling \$7,435.00, compared to

\$3,363.00 they would have received if those same claims had all been submitted under their "old policy."

9. As shown by the chart attached hereto as Exhibit G, Joseph Broadus has (to date) received more total dollars under his new policy for the cancer treatment claims submitted than would have been received for those same claims under his previous old policy. Specifically, Mr. Broadus has received benefits under his "new policy" totalling \$13,823.61, compared to \$4,909.71 which he would have received if those same claims had all been submitted under his "old policy."

10. As shown by the chart attached hereto as Exhibit H, Janice Lane has (to date) received more total dollars under her new policy for the cancer treatment claims submitted than would have been received for those same claims under her previous old policy. Specifically, Ms. Lane has received benefits under her "new policy" totalling \$8,506.00, compared to \$6,082.12 which she would have received if those same claims had all been submitted under her "old policy."

11. As shown by the chart attached hereto as Exhibit I, Francis McDonald has (to date) received more total dollars under his new policy for the cancer treatment claims submitted than would have been received for those same claims under his previous old policy. Specifically, Jr. McDonald has received benefits under his new policy" totalling \$4,318.32, compared to \$1,018.00 which he would have received if those same claims had all been submitted under his "old policy."

12. As shown by the chart attached hereto as Exhibit J, Edward Moon has (to date) received *more* total

dollars under his new policy for the cancer treatment claims submitted than would have been received for those same claims under his previous old policy. Specifically, Mr. Moon has received benefits under his "new policy" totalling \$728.00, compared to \$307.00 which he would have received if those same claims had all been submitted under his "old policy."

13. As shown by the chart attached hereto as Exhibit K, Norris Woodward [sic] has (to date) received more total dollars under his new policy for the cancer treatment claims submitted than would have been received for those same claims under his previous old policy. Specifically, Mr. Woodard has received benefits under his "new policy" totalling \$19,885.86, compared to \$17,534.76 which he would have received if those same claims had all been submitted under his "old policy."

14. According to Liberty National's records, Talmadge Allen did have cancer claims under a "new policy." As shown by the chart attached hereto as Exhibit L, Mr. Allen received \$16,757.18 under his "new policy" for his cancer treatment, and would have received \$16,296.95 for that cancer treatment had the same claims been submitted under his "old policy."

15. Ira Minyard and Grace Minyard (and those insured under their policy) are not class members, because Mr. Minyard's pre-August 29, 1986 policy was a 1979 series policy which did *not* contain unlimited benefits for radiation and chemotherapy, but instead contains lifetime monetary limits of \$2,500.00 for radiation and chemotherapy. This 1979 series policy does not meet the definition of an "old policy" under the Stipulation and

the court's class certification order. Because of this, I have not undertaken to review Mr. Minyard's cancer claims, since he is not a class member.

16. Nell E. Dismukes is a class member, but she was never insured under a "new policy" as that term is defined in the Stipulation, to the best of my knowledge, information and belief, based upon my review of Liberty National records. While Neil E. Dismukes did have cancer claims, those cancer claims were submitted (and processed) under an "old policy." Therefore, I have not undertaken a comparison as to Ms. Dismukes' cancer claims.

17. Based upon available information, John Hawsey, Jr. never had the "new policy" as that term is defined in the Stipulation. Mr. Hawsey did have cancer claims, but those claims were made (and processed) under this "old policy." Therefore, I have to [sic] undertaken a comparison as to his claims.

18. As shown by the chart attached hereto as Exhibit M. Norma Perkins received more total dollars under her new policy for the cancer treatment claims submitted than would have been received for those same claims under her previous old policy. Specifically, Ms. Perkins received benefits under her "new policy" totalling \$41,191.82, compared to \$40,304.95 which she would have received if those same claims had all been submitted under her "old policy."

19. As shown by the chart attached hereto as Exhibit N, Bernard Perkins received more total dollars under his new policy for the cancer treatment claims submitted than would have been received for those same

claims under his previous old policy. Specifically, Jr. [sic] Perkins received benefits under his "new policy" totalling \$26,582.23, compared to \$24,308.36 which he would have received if those same claims had all been submitted under his "old policy."

20. As shown by the chart attached hereto as Exhibit O, Alpheus Curtis received more total dollars under her new policy for the cancer treatment claims submitted than would have been received for those same claims under her previous old policy. Specifically, Alpheus Curtis received benefits under the "new policy" totalling \$53,484.40, compared to \$28,417.85 which he would have received if those same claims had all been submitted under the applicable "old policy."

21. As shown by the chart attached hereto as Exhibit P, Pamela Davis (Stanfield) has (to date) received fewer total dollars under her new policy for the cancer treatment claims submitted (on behalf of patient Scott L. Davis) than would have been received for those same claims under her previous old policy. Specifically, Ms. Davis has received benefits under her "new policy" totalling \$16,996.25, compared to \$22,473.65 which she would have received if those same claims had all been submitted under her "old policy." In the course of reviewing Ms. Davis' claims, we discovered an error that had been made in processing her original claims under her new policy. Upon discovery of this error, Liberty National forwarded to Ms. Davis the additional amounts owing under her new policy, with interest, and those amounts (excluding interest) are included on the comparison attached as Exhibit P.

22. As shown by the chart attached hereto as Exhibit Q, Brenda Havard received fewer total dollars for the cancer claims she has submitted (to date) under her "new policy" than she would have received for those same claims under her previous "old policy." As of December 9, 1993, Mrs. Havard had received \$49,732.70 under "new policy" number 31079836, compared with \$59,501.40 she would have received had the same claims been submitted under her "old policy" number 4207425. Mrs. Havard's cancer treatment appears to be ongoing, and it remains at least possible that, depending on the nature of any future treatment, she could ultimately receive more total dollars under her new policy for her overall, completed course of treatment, particularly if any future treatment involves substantial hospitalization or surgery. It is also possible that the difference in total dollar amount of benefits between her old and new policy will be reduced as a result of any future treatment. In addition, according to Liberty National's records, Mrs. Havard has not yet submitted any claim for income replacement benefits under her new policy. If a valid claim for such benefits were submitted, any such benefits determined to be payable would increase the amounts paid under her new policy by \$100.00 for each week of income replacement benefits paid pursuant to the terms of her new policy, but would *not* increase the benefits that would have been paid under the old policy, since income replacement benefits were not provided under the old policy.

23. As shown by the chart attached hereto as Exhibit R, Edith White has received fewer total dollars for the cancer claims submitted under her new policy than

she would have received for those same claims under her previous "old" policy. As of the present time, Mrs. White has received \$15,938.60 under her "new" policy No. 31272896, compared with \$18,307.35 which she would have received had the same claims been submitted under her "old" policy No. 21253639.

24. Of the foregoing persons listed in paragraph 2 above, all but Edward Moon were, according to the claims documents submitted, covered by medicare or private major medical insurance at the time their cancer claims were submitted to Liberty National, in addition to being covered under a Liberty National cancer policy. Edward Moon may also be covered by other medical insurance, but that information does not affirmatively appear in Liberty National's claim records. For any person with major medical insurance covering the actual cost of cancer treatment incurred, the benefits paid under a Liberty National cancer policy for the same treatment would generally amount to cash money for the insured to spend as the insured sees fit.

25. Benefits under all Liberty National cancer policies are payable to the named insured (or his assignee) *in addition to* any benefits paid for the same treatment pursuant to any other insurance policy or under Medicare. However, all Liberty National cancer benefits are limited to actual or incurred charges to the insured (or the limits of the Liberty National policy, whichever is lower). Based upon my experience, it is an extremely low possibility that any person covered by Medicare at the time his cancer claims are submitted could receive fewer total dollars under a "new policy" than would have been received under an "old policy." This is because the

amounts which providers are allowed to charge Medicare patients for a given service, drug or treatment are strictly regulated and limited under Medicare. Medicare regulations prohibit participating providers from collecting *any* additional charges (over and above Medicare-approved charges) from the patient *or from any insurer of that patient*. Exhibit S attached hereto is a sample of a Medicare provider contract containing such a prohibition. Moreover, a *non-participating* provider is prohibited by Medicare from collecting more than 115% of Medicare-approved charges for treatment of a Medicare patient. Among other things, these facts tend to make it even more unlikely than otherwise that the *actual charge* to the Medicare patient for radiation or chemotherapy treatment would exceed (much less significantly exceed) the \$500.00 daily limit for any persons covered by Medicare. Many major medical insurers such as Blue Cross and Blue Shield of Alabama also impose limits upon actual provider charges pursuant to contracts between the insurer, the insured, and participating providers, and such limits under these types of private insurance plans would have a similar effect of limiting the actual charges incurred by the patient.

26. The Court has established a Proof of Claim procedure to determine eligibility to share in the two monetary settlement pools established by the June 16, 1993 Stipulation and Agreement of Compromise and Settlement, as amended ("the Stipulation"). A Proof of Claim Form approved by the Court was included in the Notice mailed to potential class members. Under the terms of the Stipulation and the instructions in the Proof of Claim Form, persons who answered "no" to one of the first four questions on the Proof of Claim Forms are *not* eligible to

share in either of the two monetary settlement pools. As shown by Exhibit T, as of November 30, 1993, Liberty National had received 1504 Proof of Claim Forms submitted by claimants who answered "no" to one of the first four questions.

27. The chart attached hereto as Exhibit U sets forth certain basic information determined thus far with respect to each of those 636 Proof of Claim Forms received by Liberty National on or before November 30, 1993 which contained "yes" answers to each of the first four questions on the Proof of Claim Forms. Claimants who answer yes to the first four questions of the Proof of Claim Form must still meet additional criteria in order to share in either of the \$1,000,000.00 or \$3,000,000.00 monetary settlement pools. To be eligible to share in the \$1,000,000.00 settlement pool, a claimant must, among other things, qualify as a class member; must accurately answer "yes" to the first four questions of the Proof of Claim Form; must submit the required supporting documentation with the Proof of Claim Form; must have replaced an "old policy" (as defined in the Stipulation) with a "new policy" (as defined in the Stipulation) within 30 days of lapsing the "old policy"; must have submitted claims for cancer benefits while the "new policy" was in force; must have incurred expenses for radiation, chemotherapy, prescription chemotherapy, or out-of-hospital prescription drugs which were not fully paid by Liberty National; and must submit a timely and proper Proof of Claim Form. To be eligible for the \$3,000,000.00 settlement pool, the claimant must meet all of the foregoing criteria *and* must have received fewer total benefit dollars under the "new policy" than would have been received

under the pertinent "old policy" for the same overall cancer treatment. Complete eligibility requirements are set forth in the Stipulation and the Proof of Claim Form.

28. The chart attached hereto as Exhibit V lists all of those class members who filed Proof of Claim Forms which could *potentially* meet the eligibility requirements to share in the \$1,000,000.00 pool, based upon Liberty National's review to date. The persons listed on Exhibit V are persons who submitted Proof of Claim Forms, answered "yes" to the first four questions on the Proof of Claim Form, had an "old policy" in force or in the grace period on or after August 29, 1986, and later switched to the new policy and had claims under the new policy. Some, but not all, of the persons listed on Exhibit V will also share in the \$3,000,000.00 pool. Persons listed on Exhibit V will share in the \$3,000,000.00 pool only if they are determined to have received fewer total dollars under their "new policies" than would have been received under their "old policies" for the same overall cancer treatment, and only if they meet all other eligibility requirements as well. With respect to Proof of Claim Forms received by Liberty National on or before November 30, 1993 (Exhibits T and U), claimants who are *not* listed on Exhibit V have been determined *not* to be eligible for either of the two monetary settlement pools, based upon the information reviewed by Liberty National.

29. The Proof of Claim Form contained in the class action notice in the above-styled action includes instructions that it is only to be returned by class members who had suffered cancer *and* had submitted claims for radiation, chemotherapy, prescription chemotherapy, out-of-hospital or prescription drugs that were not fully paid by

Liberty National. Therefore, one would expect the group of persons submitting Proof of Claim Forms to contain a higher proportion of claimants with radiation and chemotherapy treatment, and a higher proportion of claimants who received fewer dollars under their new policy, than the proportion for cancer claimants generally. Initially, Proof of Claim Forms were processed based upon order of receipt, but Liberty National is now concentrating on processing the Proof of Claim Forms of persons with radiation and chemotherapy first, since they are alleged to be the most likely to have received *fewer* benefit dollars under their "new policies" than would have been received under an "old policy" for the same cancer treatment. It is extremely unlikely that any person who suffered internal cancer and made claims under a "new policy" (but did not receive radiation or chemotherapy of any kind) would have received fewer total dollars under his "new policy" than would have been received under the "old policy" for the same treatment, since the First Occurrence benefit of the "new policy" alone would virtually assure that the "new policy" would produce more total benefit dollars to each such claimant, and since the daily limits under the "new policy" on radiation and chemotherapy would not come into play for such persons. Only the "new policy" contained a First Occurrence benefit. Of the 410 class members listed on Exhibit V, 322 had radiation and chemotherapy claims under a new policy.

30. A total of 107 of the 410 potentially eligible Proof of Claim Forms listed in Exhibit V have been fully analyzed thus far. Collective Exhibit W attached hereto shows that of the 107 claimants for whom analyses or

comparisons have been completed, 72 received *more total* dollars under their new policy than would have been received under the previous old policy for the same overall cancer treatment, and only 25 received *fewer total* dollars under their new policy, according to the information submitted with the Proof of Claim Form and with the original claims of each claimant. An additional 10 of these 107 Claimants shown in collective Exhibit W did not require a comparison, because they received no radiation, chemotherapy, prescription chemotherapy or out-of-hospital prescription drugs for their cancer treatment. Under the terms of the Settlement, persons who did not have any radiation, chemotherapy, prescription chemotherapy, or out-of-hospital prescription drugs as part of their cancer treatment are not eligible for restitution, nor are they eligible to share in either of the two settlement pools. (Most of the Proof of Claim Forms for which comparisons have been completed pertain to claimants who had radiation and chemotherapy treatment, since Liberty National decided to begin concentrating on that group of claimants first, for the reasons stated in paragraph 29, above). Collective Exhibit W also shows (for each claimant) the number of days of radiation/chemotherapy treatment exceeding \$500 per day, and the number of days of radiation/chemotherapy treatment which did not exceed \$500 per day. For example, Collective Exhibit W shows that claimant Thomas P. Plunkett has 555 days of chemotherapy treatment *under* the \$500.00 daily limit of his new policy, and only 1 day of chemotherapy treatment in excess of \$500.00. Similarly, Collective Exhibit W shows that Jessie Arnold had 222 days of chemotherapy treatment *under* the \$500.00 daily limit of the new policy, and

only 1 day of chemotherapy treatment over \$500.00. For the entire group of 107 claimants reflected in Collective Exhibit W, there were only 523 days of radiation and chemotherapy for which the actual charge *exceeded* the applicable \$500.00 daily limit of the new policy, and 4141 days of radiation and chemotherapy treatment for which the actual charge was *less than* \$500.00 per day. (In addition, there were only 20 days of radiation and chemotherapy treatment which exceeded the applicable \$250.00 daily limits of a claimant's Senior Cancer Care policy, compared to 56 days *under* that applicable \$250.00 limit).

31. As shown by Exhibit V, as of November 30, 1993, 410 claimants submitted Proof of Claim Forms which are *potentially* eligible for one or both of the monetary settlement pools. Thus far, 107 of those 410 Proof of Claim Forms have been fully analyzed or processed, and only 25 of those 107 (or approximately 23.36%) represent class members who had claims for radiation, chemotherapy, prescription chemotherapy, or out-of-hospital prescription drugs, but received *fewer total* dollars under their "new policies" than would have been received under their "old policies" for the same overall cancer treatment. Thus, to date, only 25 claimants are known for certain to be eligible for *both* the \$3,000,000.00 and \$1,000,000.00 monetary pools under the settlement, with 107 of 410 *potentially* eligible Proof of Claim Forms having been fully processed. If, as expected, this percentage drops (or, at most, remains consistent) as the remaining Proof of Claim Forms are analyzed or processed, it may be expected that *no more than* 96 (23.36% of 410) of the class members listed on Exhibit V will be eligible to share in the \$3,000,000.00 settlement pool, and probably less

than that number (for the reasons set forth in paragraph 29, above). All who qualify for the \$3,000,000.00 settlement pool will also share in the \$1,000,000.00 settlement pool, *and* receive 100% restitution of the actual difference in total benefits under their old and new policies. The number of claimants eligible to share in the \$3,000,000.00 pool may increase slightly as a result of Proof of Claim Forms received by Liberty National after November 30, 1993 but before the December 20, 1993 deadline for submission of Proof of Claim Forms.

32. Persons listed on Exhibit V who received *more* total dollars under their new policy – but nevertheless exceeded a daily limit under their new policy for radiation or chemotherapy, exceeded an annual limit on prescription chemotherapy under the new policy, or incurred expenses for non-cancer-fighting out-of-hospital prescription drugs in connection with their cancer treatment – are still *potentially* eligible to share in the \$1,000,000.00 settlement pool, but *not* the \$3,000,000.00 settlement pool. Not all of the persons listed on Exhibit V will in fact prove eligible for *either* of the monetary settlement pools. It is likely, for example, that some of the 410 claimants listed on Exhibit V received no radiation, chemotherapy, prescription chemotherapy, or out-of-hospital prescription drugs for their cancer (or received full reimbursement under the new policy for any such treatment they did receive), and are therefore not eligible to share in either of the two settlement pools. Indeed, of the 107 Proof of Claim Forms that have been fully processed, 10 claimants had received no radiation, chemotherapy, prescription chemotherapy or out-of-hospital prescription drugs for their cancer. (See Exhibit W). Nevertheless, of those class

members who filed timely and proper Proof of Claim Forms which were received by Liberty National on or before November 30, 1993 (Exhibits T and U), *no more than* the 410 claimants listed on Exhibit V are even *potentially* eligible for the \$1,000,000.00 pool. These numbers could vary somewhat as a result of any additional timely and proper Proof of Claim Forms received by Liberty National between November 30, 1993 and the December 20, 1993 deadline for submission of Proof of Claim Forms.

33. In order to determine whether a claimant received more total dollars in benefits under a new policy for the claims actually submitted under that new policy (compared to the total dollars in benefits that would have been received for the same claims under the claimant's previous old policy), all claims documentation submitted with the Proof of Claim form is reviewed, together with certain Liberty National records concerning the claimant's original claims for benefits under the new policy, and Liberty National records concerning Liberty National's benefit payments on the original claims. The original claims documentation submitted to Liberty National by the claimant is stored in paper records, in microfilm, or in microfiche, and is stored according to the date each claim was processed by Liberty National (not by the individual's name). The date claims were processed, the amount of benefits actually paid, and certain data regarding any claims not covered by the new policy in question are stored by computer, and that information is accessible by the insured's full name, date of birth, and policy number. The full amount of (and other critical details concerning) the original claims submitted or

charges incurred cannot be determined from the computer records, but only from the chronological claims files and the information submitted with the Proof of Claim Form. It takes as much as 25 working-hours to review each Proof of Claim form and attached documentation, locate the original claims documentation, and manually calculate whether the claimant would have received greater total benefits under the applicable old policy for claims actually submitted under a new policy. Each separate category of benefits must be separately calculated in order to make this determination. The same personnel responsible for processing incoming cancer claims in the ordinary course of business are needed to process Proof of Claim Forms. Absent the Proof of Claim Form procedures established by this Court pursuant to the Settlement, it would literally take years to complete such an analysis and comparison for every person who has ever submitted a claim for cancer benefits under a "new policy." Even with the Proof of Claim procedure, the process is still extremely time-consuming.

34. In supervising the processing of Liberty National's cancer claims in the ordinary course of business, it has been my experience that approximately two out of three cancer claimants do not receive (and make no claims for) any radiation or chemotherapy treatment whatsoever.

35. Based upon my experience in handling claims under Liberty National cancer policies, it is and always has been my belief and best judgment that the "new policies" result in the payment of more total dollars in benefits to the vast majority of insureds who actually suffer cancer, because of the "first occurrence," income

replacement, prosthesis, and hospice benefits under the new policies which were not provided under the old policies, and because of the higher hospital confinement benefits, attending physicians' benefits, nurse benefits, anesthetist benefits and generally higher surgical benefits under the new policies (among other new or higher benefits). In my best judgment, in the vast majority of cases, these new and higher benefits under the new policies more than offset the effect (if any) of the daily monetary limits under the new policies for radiation and chemotherapy, the annual limits on prescription chemotherapy drugs under the new policies, and the absence of coverage under the new policies for non-chemotherapy prescription drugs administered outside the hospital.

36. Review, verification and processing of Proof of Claim Forms is ongoing, and the deadline for submission of Proof of Claim Forms is December 20, 1993. This affidavit will be supplemented to reflect the results of additional timely and proper Proof of Claim Forms received after November 30 or processed between now and the January 20, 1994 Fairness Hearing, and to reflect any changes resulting from development or discovery of further pertinent information.

37. In addition to cancer claims which preceded the filing of a claimant's Proof of Claim Form, the benefit comparisons reflected in this affidavit currently include any additional claims for benefits received and processed by Liberty National in the ordinary course of business between the date the claimants' Proof of Claim Form was submitted and December 9, 1993. For any class member who submits a Proof of Claim Form, and thereafter submits additional claims for benefits under his or her new

cancer policy after filing a Proof of Claim Form but before December 20, 1993, the pertinent analysis will ultimately be updated by Liberty National to take into account all cancer claims filed by that claimant under the new policy through December 20, 1993.

Further deponent sayeth not.

/s/ Thomas E. Hamby
Thomas E. Hamby, Affiant

Sworn to and subscribed before me this
the 14th day of December, 1993.

/s/ Betsy P. Collins
Notary Public

My commission expires: 7-26-94

[SEAL]

IN THE CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
CLAYTON DIVISION

| | | |
|-------------------------------|---|---------------|
| CHARLIE FRANK ROBERTSON, |) | CONFIDENTIAL |
| individually and on behalf of |) | |
| a class, |) | |
| |) | |
| Plaintiffs, |) | CIVIL ACTION |
| |) | NO. CV-92-021 |
| v. |) | |
| |) | |
| LIBERTY NATIONAL LIFE |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |

SUPPLEMENTAL AFFIDAVIT OF THOMAS E. HAMBY

STATE OF ALABAMA)

VOL I

COUNTY OF JEFFERSON)

Before me, the undersigned notary public in and for said county and said state, personally appeared Thomas E. Hamby, who being known to me and having been first duly sworn, deposes and says as follows:

1. My name is Thomas E. Hamby. I have previously filed an affidavit in the above-referenced action, and that affidavit was filed with the Court on or about December 15, 1993 ("original affidavit"). The purpose of this supplemental affidavit is to update my original affidavit to reflect information regarding additional Proof of Claim Forms that have been received or processed since my original affidavit was filed, and to reflect additions and adjustments, as well as correction of certain omissions

and errors in charts attached as Collective Exhibit W to my original affidavit.

2. Since my original affidavit was filed, the December 20, 1993 deadline for filing Proof of Claim Forms has expired. As of January 10, 1994 Liberty National had received a total of 2634 Proof of Claim Forms which were filed with the Special Master on or before December 20, 1993, *including* those Proof of Claim Forms referenced in my original affidavit. As of January 7, 1994, Liberty National understood that the Special Master had not completed copying and transmitting all Proof of Claim Forms filed on or before December 20, 1993, though the vast majority had been copied and transmitted.

3. The chart attached hereto as Exhibit T is a revised and updated version of the chart attached to my original affidavit as Exhibit T. As shown by Exhibit T, as of January 10, 1994 Liberty National had received a total of 1689 Proof of Claim Forms submitted by claimants who answered "no" to any one of the first four questions of the Proof of Claim Form. Persons who answer "no" to one of the first four questions of the Proof of Claim Form are not eligible for restitution, nor are they eligible to share in either of the two monetary settlement pools under the terms of the Stipulation.

4. The chart attached hereto as Exhibit U is a revised and updated version of the chart attached as Exhibit U to my original affidavit. As shown by the revised Exhibit U attached hereto, as of January 10, 1994 Liberty National had received a total of 945 Proof of Claim Forms which contained "yes" answers to each of the first four questions on the Proof of Claim Forms. To

be eligible to share in the \$1,000,000.00 settlement pool, a claimant must, among other things, qualify as a class member; must accurately answer "yes" to the first four questions of the Proof of Claim Form; must submit the required supporting documentation with the Proof of Claim Form; must have replaced an "old policy" (as defined in the Stipulation) with a "new policy" (as defined in the Stipulation) within 30 days of lapsing the "old policy"; must have submitted claims for cancer benefits while the "new policy" was in force; must have incurred expenses for radiation, chemotherapy, prescription chemotherapy, or out-of-hospital prescription drugs which were not fully paid by Liberty National; and must submit a timely and proper Proof of Claim Form. To be eligible for the \$3,000,000.00 settlement pool, the claimant must meet all of the foregoing criteria *and* must have received fewer total benefit dollars under the "new policy" than would have been received under the pertinent "old policy" for the same overall cancer treatment. Complete eligibility requirements are set forth in the Stipulation and the Proof of Claim Form.

5. The chart attached hereto as Exhibit V is a revised and updated version of the chart attached as Exhibit V to my original affidavit. The chart attached hereto as revised Exhibit V lists all of those class members who filed Proof of Claim Forms which were received by Liberty National on or before January 10, 1994 and which could *potentially* meet the eligibility requirements to share in the \$1,000,000.00 pool, based upon Liberty National's review to date. The persons listed on Exhibit V are persons who submitted Proof of Claim Forms received by Liberty National on or before January 10,

1994, answered "yes" to the first four questions on the Proof of Claim Form, had an "old policy" in force or in the grace period on or after August 29, 1986, and later switched to the new policy and had claims under the new policy. Some, but not all, of the persons listed on Exhibit V will also share in the \$3,000,000.00 pool. Persons listed on Exhibit V will share in the \$3,000,000.00 pool only if they are determined to have received fewer total dollars under their "new policies" than would have been received under their "old policies" for the same overall cancer treatment, and only if they meet all other eligibility requirements as well. With respect to Proof of Claim Forms received by Liberty National on or before January 10, 1994, (revised Exhibits T and U attached hereto), claimants who are *not* listed on Exhibit V have been determined *not* to be eligible for either of the two monetary settlement pools, based upon the information reviewed by Liberty National.

6. Of the 664 class members listed on revised Exhibit V, 542 had radiation and chemotherapy claims under a new policy, according to the information tabulated to date.

7. A total of 139 of the 664 potentially eligible Proof of Claim Forms listed in the revised Exhibit V attached hereto have been analyzed thus far. Corrected, revised, and updated versions of the original 107 comparisons attached as Collective Exhibit W to my original affidavit plus the additional comparisons performed by Liberty National with respect to potentially eligible Proof of Claim Forms between the date of my original affidavit and the date of this affidavit are attached hereto as revised Collective Exhibit W.

8. The revised Collective Exhibit W to this affidavit shows that of the 139 claimants for whom analyses or comparisons have [sic] completed thus far, 94 received *more* total dollars under their new policy than would have been received under the previous old policy for the same overall cancer treatment, and only 35 received *fewer* total dollars under their new policy, according to the information submitted with the Proof of Claim Form and with the original claims of each claimant. An additional 10 of the 139 claimants shown in Collective Exhibit W to this affidavit did not require a comparison, because they received no radiation, chemotherapy, prescription chemotherapy or out of hospital prescription drugs for their cancer treatment. Under the terms of the Settlement, persons who did not have any radiation, chemotherapy, prescription chemotherapy, or out-of-hospital prescription drugs as part of their cancer treatment are not eligible for restitution, nor are they eligible to share in either of the two settlement pools.

9. Revised Collective Exhibit W to this affidavit also shows (for each claimant) the number of days of radiation/chemotherapy treatment exceeding \$500.00 per day and the number of days of radiation/chemotherapy treatment which did not exceed \$500.00 per day. Revised Collective Exhibit W to this affidavit shows that for the entire group of 139 claimants reflected in that Collective exhibit, there were only 826 days of radiation and chemotherapy for which the actual charge *exceeded* the applicable \$500.00 daily limit of the new policy, and 5288 days of radiation and chemotherapy treatment for which the actual charge was less than \$500.00 per day. (In addition, for the entire group of 139 claimants reflected in revised

Collective Exhibit W to this affidavit, there were only 20 days of radiation and chemotherapy treatment which exceeded the applicable \$250.00 daily limits of a claimant's Senior Cancer Care policy, compared to 49 days under that applicable \$250.00 limit).

10. As shown by revised Exhibit V attached hereto, 664 claimants have submitted Proof of Claim Forms received by Liberty National on or before January 10, 1994 which are *potentially* eligible for one or both of the monetary settlement pools. Thus far, 139 of those 664 Proof of Claim Forms have been analyzed or processed, and only 35 of those 139 (or approximately 25.18%) represent class members who had claims for radiation, chemotherapy, prescription chemotherapy, or out-of-hospital prescription drugs, but received fewer total dollars under their "new policies" than would have been received under their "old policies" for the same overall cancer treatment. Thus, to date, only 35 claimants are known to be eligible for *both* the \$3,000,000.00 and \$1,000,000.00 monetary pools under the settlement, with 139 of 664 *potentially* eligible Proof of Claim Forms having been processed. Assuming this percentage remains consistent as the remaining *potentially* eligible Proof of Claim Forms are analyzed and processed, it may be expected that no more than 167 (25.18% of 664) of the class members listed on revised Exhibit V will be eligible to share in the \$3,000,000.00 settlement pool (and probably less than that number for the reasons set forth in paragraph 29 of my original affidavit). If the Settlement is approved and affirmed, all who qualify for the \$3,000,000.00 settlement pool will also share in the \$1,000,000.00 settlement pool,

and will also receive 100% restitution of the actual difference in total benefits under their old and new policies.

11. Any persons listed on the revised Exhibit V attached hereto who received *more* total dollars under their new policy – but nevertheless exceeded a daily limit under their new policy for radiation or chemotherapy, exceeded an annual limit on prescription chemotherapy under the new policy, or incurred expenses for non-cancer-fighting out-of-hospital prescription drugs in connection with their cancer treatment – are still *potentially* eligible to share in the \$1,000,000.00 settlement pool, but *not* the \$3,000,000.00 settlement pool. For the reasons stated in paragraph 32 of my original affidavit, not all of the persons listed on Exhibit V will in fact prove eligible for either of the monetary settlement pools. Nevertheless, of the class members who filed timely and proper Proof of Claim Forms (revised Exhibits T and U attached hereto), no more than the 664 claimants listed on the revised Exhibit V attached hereto are even *potentially* eligible for the \$1,000,000.00 pool.

12. It is, and to my knowledge always has been Liberty National's policy and practice to deliver each of its customers the policy purchased from Liberty National following the issue of such policy. These policies are either delivered by mail or hand delivered by the agent in charge of the debit route applicable to the customer. In addition, duplicate policies are provided in the ordinary course of business upon request.

13. Attached hereto as Exhibit X is a list of Proof of Claim Forms apparently submitted on or before the December 20, 1993 deadline for filing Proof of Claim

Forms, but which were not received by Liberty National until after January 10, 1994. No determination has been made at this time as to whether any of these claimants are potentially eligible for either of the two monetary settlement pools. When these additional Proof of Claim Forms are analyzed, the estimates contained in this affidavit may increase by a very small percentage.

14. I have personal knowledge of (and access to business records of Liberty National concerning) the matters set forth in this affidavit, and, subject to any inadvertent, undiscovered or typographical errors or omissions, the documents attached hereto accurately summarize the matters they purport to show based upon information obtained from the Proof of Claim Forms and business records of Liberty National, to the best of my knowledge, information and belief. Except as expressly updated or modified herein, the testimony set forth in my original affidavit remains my testimony, and that testimony is accurate to the best of my knowledge, information and belief. There will be further review and verification by Liberty National of the charts attached hereto between now and the date of final submission of these comparisons to the Special Master.

/s/ Thomas E. Hamby
Affiant

Sworn to and subscribed before
me this 16th day of January, 1994.

/s/ Betsy P. Collins
Notary Public

My commission expires: 7/26/94
[SEAL]

EXHIBIT: 2, 3, 4, 5, 6 & 7

VOLUME: 4

IN THE CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
CLAYTON DIVISION

| | | |
|---------------------------------|---|--------------|
| CHARLIE FRANK ROBERTSON, |) | |
| individually and on behalf of a |) | |
| class, |) | CIVIL ACTION |
| |) | NO. CV92-021 |
| Plaintiffs, |) | |
| |) | |
| v. |) | |
| LIBERTY NATIONAL LIFE |) | |
| INSURANCE COMPANY, |) | |
| Defendant |) | |

EXHIBITS TO
LIBERTY NATIONAL'S STATEMENT OF FACTS,
EVIDENCE AND AUTHORITIES IN SUPPORT
OF PROPOSED CLASS ACTION SETTLEMENT

James W. Gewin
Michael R. Pennington
Horace G. Williams
Attorneys for Liberty
National Life Insurance
Company

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ROBERTSON V. LIBERTY NATIONAL
BARBOUR COUNTY CV92-021
Index of Objectors

INDIVIDUAL OBJECTORS FILING ON THEIR
OWN BEHALF

Norma S. Gordon/Kelly G. Hooper
Jackie C. Robertson
Robert J. Gross, Jr.
Geraldine Pinkston
Mamie Harvey
Guy Robert Jackson, Jr.
Thelma S. Jackson
Arlie R. Woodard

ADAMS/REESE

Willie Reese
Mattie Reese
Bobbie D. Lee

ARMBRECHT/JACKSON

Guy Adams
Alice Adams
Retha B. Attaway
Beatrice Bateman
Herman Bateman
Enda F. Brock
Dr. Neil Capper
Anna Clausen
Billy Clausen
Berry Connell
John Day

Mary Day
Arthur Dickinson
Peggy Dickinson
Theda Enfinger
Edith E. Fellows
Johnny F. Fellows
Mary L. Fowler
Sara Griffith
Willard Griffith
Hazel Jefferson
John Jefferson
Jerry Johnson

Kathi Johnson
 Bertha Jones
 Johnnie Jones
 Albert Adams, Jr.
 George Kountz
 Mary Kountz
 Martha Massengale
 Seraphim Massengale
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 Ethel M. Offord
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 Estelle Permenter
 Vernon Permenter
 Almitta Pitt
 Arnold Pitt
 Willard Price
 Charles Read
 Hazel Read
 Louise Reins
 Aubrey Rider
 Mary L. Rider
 Carol Riley
 Alex Rivers
 Doris Rivers
 Geraldine Rowe
 Joseph Savell
 Joy Savell
 Ola Saxon
 Jean Sealy
 Norma Sessions
 Ray Sessions
 Carol Annm Shofner
 Aaron Singley
 Connie Singley
 Jean Singley
 Woodrow Smith

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 Margaret Templeton
 Morris Thompson
 Wilma Thompson
 Grace Truner
 John Truner
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 Sandra Turner
 Joann Urban
 Judy Vice
 Tommy Vice
 Jerry Waller
 Wilda Waller
 Ena Walters
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 Charles Wayne
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 Sheila White
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Michael Willett
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 Gladys F. Cody
 Jeanie S. Fincher
 Henry L. Maughon
 Shelby Maughon
 James R. Snow, Sr.
 Karl M. Hoven, Sr.
 Essie Tompkins
 Kiberlye G. Williams
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 Mr. John Atchison
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 Mr. William Becton

Mrs. William Becton
 Mr. Thomas H. Benton
 Mrs. Thomas H. Benton
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 Nila M. Carlisle
 William M. Carlisle
 (deceased)

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 Mr. Amos D. Cayton
 Mrs. Amos D. Cayton
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 Doris Esalva (deceased)
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 Charles Henry Golden
 (deceased)
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 Mrs. Richard Long
 Mr. Ronald McRae
 Mrs. Ronald McRae
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 Mr. Larry C. Moring
 Mrs. Larry C. Moring
 Judy Moring (deceased)
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 Mr. Scott Nelson
 Mrs. Scott Nelson
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 Easter S. Thompson Odom
 Mr. Ernest L. Odom
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 Mr. Terry Perkins
 Mr. Robert Perkins

Mr. Louis Perkins
 Mrs. Robert Perkins
 Mrs. Terry Perkins
 Mrs. Louis Perkins
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 Mrs. Bruce Rambo
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 Mr. James Reeves
 Mrs. James Reeves
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 Mrs. Kenneth L. Ryals
 Rhonda Smith
 Mr. James Nelson, Sr.
 Mrs. James Nelson, Sr.
 Marie Steiner
 Oliver A. Steiner
 (deceased)
 Mr. Kenneth E. Stewart
 Mrs. Kenneth E. Stewart
 Robert E. Stewart
 Stephen E. Stewart
 Mr. Tommy R. Sutton
 Mrs. Tommy r [sic]. Sutton
 Jerome Warren
 Mr. Roger F. Wheeler
 Mrs. Roger F. Wheeler
 Mr. Glen D. White
 Mrs. Glen D. White
 Mr. Frances A. Wilkie
 Mr. Frances A. Wilkie, Jr.
 Laurine Young

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Wilma Sockwell
 Carroll Williams
 Lee A. Willingham
 Shirley L. Willingham

DUCK/CALHOUN

Donald W. Gable
 Sandra G. Fuqua

FINKBOHNER/CHIEPALICH

| | |
|-------------------------|-------------------------|
| Debra Averitt | Billy R. Huggins |
| Everitt Averitt | Charles E. Jones |
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| Jessie H. Beckish | Andrew J. Stewart, Jr. |
| Calvin Bosarge | John E. Herrington, Jr. |
| Carol Cooper | George W. Mears |
| Nolan Cooppper [sic] | Jessie E. Mears |
| David C. Cox | Susan Q. Miller |
| Elizabeth B. Cox | William J. Miller |
| Dorothy Darnell | Martin J. Powers |
| William Darnell | Edward E. Russ |
| Doris Davis | Particia Sauce |
| Jerry Davis | Bonnie R. Sprinkle |
| Julius E. Davis | James Strength |
| Marian H. Davis | Naomi Strength |
| Deane Drew | Patricia Strength |
| Brady Eubanks | Dorothy White |
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| Josephine Farrior | Claudia Wittner |
| Brenda M. Foster | Joseph Wittner |
| Elizabeth Gunnin | Joan Young |
| Elton Gunnin | Raymond Young |
| William M. Howell | |
| Ernest L. Howze | |
| Arlene A. Huggins | |

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 John D. Benefield
 John Ellis
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 Martin Holloway
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 William W. Dowdle, Jr.
 Joe McDaniel
 Martha McDaniel
 Cynthia F. Wilderson
 Betty M. Williams
 Brenda L. Williams
 Willie A. Williams

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| | |
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| Melanie Adkinson | Doris K. Craig |
| Mary P. Bailey | Mark B. Craig |
| Billy J. Borden | Maurice Braxton Craig |
| Betty Jane Bradford | Byron Curry |
| Kamalie J. Bradford | Betty Deese |
| Robert Hutson Bradford | Harold Deese |
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| Douglas Carlisle | Loren Fisher |
| Jennifer Carlisle | Caroline Gardner |
| Donald Chestnut | Carrie Gardner |
| Frank L. Chestnutt | Joseph Gardner |
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 Robert Mathaney
 Harry V. May
 Rhonda R. May
 Shirley May
 Hazel Mayo
 James Mayo
 Glenda Mills

Howard Mills
 Jonathan Mills
 Valenda Mills
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 Cynthia Owens
 Andrea L. Parker
 Catherine Parker
 Crystal D. Parker
 Gordon F. Parker
 Martha L. Parker
 Stacey A. Parker
 Howard Parmer
 Mamie Parmer
 Chester Patrick
 Geneva Patrick
 Barbara C. Raines
 Eddie D. Raines
 Leon E. Raines
 Teresa D. Raines
 Billy Don Ryan
 David L. Ryan
 Kelley L. Ryan
 Partick [sic] Ryan
 Sarah L. Ryan
 Gary Saxon
 Paula Saxon
 Jason Smith
 Rodney Smith
 Sheila Smith
 Tiffany Smith
 William D. Bailey, Sr.
 Annie Tillman
 Ashleigh Tindal
 Cherylann Tindal
 Meagan Tindal
 Michael Tindal
 Diane Weeks

Jennifer Weeks
Jonathan Weeks
Lalonie Weeks
Thomas Weeks
Betty Williams

GLIDEWELL

Billy Wayne Robertson
Billy Weston Robertson
Nancy Eagan Robertson
Melinda Lee Robertson

GUDAC

Larry L. Andrews
Jane E. Ankerson
Rosalie B. Ankerson
Edward J. Arata
Margery J. Baxer
August T. Bozant
Teresa R. Bozant
Lois Brettel
Thomas Brettel
Joseph E. Broughton
Susan L. Brown
Barbara Burgess
Michael Burgess
Linda Butts
Richard Butts
Robert H. Butts
William H. Butts
Jesse L. Carlise
James P. Cofield
Barbara Cooper
Lillie J. Cooper
Thomas Cooper
Robert & Mellissa Cox
Patricia R. Estes

Randolph Williams
Rex Witt
Ruby Nell Witt
Mirian Wooten

Wylie L. Estes
John C. Goodwin
Ruth F. Granade
Larry Hester
Doris Hewett
Pamela S. Hewett
Scott Hewett
Robert Holifield
John A. McRae, Jr.
Madeline K. Burnes
Daphne P. Kelley
Douglas E. Kelly
Barry L. Kitchens
Gladis B. Kitchens
George W. Lewis
Shawn M. Lewis
Byron Lundy
Kevin M. McPherson
Lucille McPherson
Catherine A. McRae
Lucille L. McRae
Monica G. Merifield
Jerry Money
Maynard K. Peckham
Jewell B. Pierce

David Pitt
Melvin J. Pitt
Diane Presley
Michael Presley
Jerry L. Pulliam
Rhonda L. Pulliam
D.E. Revere
Jean Revere (deceased)

HAND/ARENDALL

Mr. Vernon Adamson, Sr.
Mrs. Vernon Adamson, Sr.
Sybil R. Blackwell
Marsha N. Britton
Vera K. Bynum
Charles D. Byrd Mrs.
Charles D. Byrd
James L. Calcote
Mrs. James L. Calcote
William W. Chunn
Mrs. William W. Chunn
Edwina C. Clearman
SaMartha B. Colvin
Janet Cook
Kenneth H. Cook
Helen H. Day
Ronald V. Dixon
Louise N. Dunaway
Carol B. Golden
Joseph R. Havard
Brenda Havard
Myrtle O. Hawman
Mark L. Howell
Mrs. Mark L. Howell
Foster L. Jones, Jr.
Mrs. Foster L. Jones
Jewel N. Jones

Richard L. Russell
Curtis L. Shewmake
Nelma G. Shewmaker
Cleveland Smith
Gary O. Smith
Cecilia R. Street
John D. Turner

Ellen R. Lesley
Eunice W. Long
Myrna B. Matthew
Allen K. Middleton
Mrs. Allen K. Middleton
Alberta D. Overstreet
Vivian C. Overstreet
Marice E. Perkins, Jr.
Betty T. Phillips
George Reeves, Sr.
Mrs. George Reeves, Sr.
James R. Reeves, Sr.
Mrs. James R. Reeves, Sr.
Helen R. Rhodes
Carlton D. Robertson
Mrs. Carlton Robertson
Allen H. Ryals
Mrs. Allen H. Ryals
Dorothy H. Scoggins
Thomas G. Scoggins, Jr.
Mildred L. Smith
Ruth M. Walton
Daniel A. Warren
Dorothy A. Warren
Randal S. Warren
Timothy J. Warren
Max L. Yates
Mrs. Max L. Yates

HANNAH/MARSEE

Little George Gilbert
 Richard L. Hartman
 Ralph Howell
 Winnie Howell
 Gloria J. McQuien
 Edith Oliver
 Patti Scott (admstrtr/N. Perkins)
 Patti Scott (repersnt [sic]/B. Perkins)
 Vicki Reynolds
 Roberta M. Shaffer
 Dorothy M. Shuler
 Inez Walker

HESS/ATCHISON

Douglas C. Hammac, Sr.
 Virginia E. Hammac
 Victor C. Lazzari, Jr.
 Paula C. Lazzari
 Terry W. Knight
 Pamela C. Knight

MCFADDEN/LYON

Samuel R. Anderson
 Beverly Crenshaw
 Larry K. Crenshaw
 Jewel I. Crenshaw (L.K. Crenshas [sic] executor)
 Wanda Waters Doole
 Chester C. Harden
 James D. Harrington
 Lynn H. Harrington
 Theresa D. McGehee
 Helen P. Megginson
 Ronald A. Megginson
 Lynn C. Miller
 Ronald W. Montgomery
 Bruce W. Seaman

Estel J. Waller
 Wayne E. Waller

MANTIPLY & ASSOCIATES

Lynn C. Miller

MAPLES/LOMAX

Guy Aubrey Bell
 Mrs. Guy Aubrey Bell
 Jo Minter
 Bradis M. Crocker
 Artis Crocker
 Joe Nance
 Mrs. Joe Nance
 James W. Scott
 Jaems H. Bonniwell
 John Doe (other unnamed objectors)

OLEN/MCGLOTHREN

John W. Curtis
 Susan W. Curtis

POSEY

Winona H. Turk

PERLOFF

Robert L. Alday
 Terry L. Alday
 Edith F. Boudan
 Edith M. Boudan
 Gary A. Brunson
 Billy H. Cooner
 Steven D. Cooner
 Brenda York Cooper
 Clarence Davis
 Tony R. Davis
 Helen B. Eslava
 Sylvia L. Glisson
 Marie K. Peevy

William J. Pierce
Betty Napier Stacey

RAGSDALE

Darlene Skinner
Walton K. Shinner
Judy K. Gann
Jodie E. Gann
Teresa Mize
Carol Thompson (T. Mize Executor)
Jean S. Stoltz
Lena Latham
Howard F. Smith

RICHARDSON/DANIELL

Telecia Paulk (f/n/a)
Donald L. Allen
Mary J. Allen
Bennie F. Baker
Gladys R. Baker
Alma G. Barnes
William A. Barnes
William T. Beasley
Margaret Beech
Grace Biondolillo
Hiram R. Burge
Carel D. Bush
Ashton B. Cannon
Carolyn Cannon
Brenda S. Cazalas
Edna W. Collings
Leslie C. Collings
Sallie M. Conway
Deborah M. Cox
Tommy R. Cox
Leo C. Crain
Sandra E. Crain

Angela DeSantis
Pat DeSantis
Penelope A. DeSantis
Della M. Finlay
Lore M. Franklin
Delecia Gibbs
Charles R. Gilbert
Deborah Guy
Raymond Guy
Wyone Guy
Judith C. Hinton
Linda H. Hoss
Richard J. Hoss
Daisy D. Howell
Douglas W. Howell
Lucille J. Jackson
Francis L. Jockisch
Theodore W. Jockisch
Bryon D. Ray, Jr.
Rayford Hinton, Jr.
Warren G. Stanley, Jr.
Lois N. Klaas
Ruby Knapp

William D. Knapp
Gloria W. Lumpkin
Phillip Bruce Lumpkin
David L. Lynd
Elizabeth S. Lynd
Delores M. Gilbert
Hugh F. McCoy
Annie G. Miller
Floyd J. Miller
James J. Mitchener
Sally F. Mitchener
Catherine J. Odom
Hubert R. Odom
Jamie Phillips
Susan T. Price
Gail Pruitt
Albert E. Ray
Cora Q. Ray
Lynn M. Ray
Mickey E. Ray
Patrick Ray
Willie J. Ray
Kay I. Rose
Augustus L. Smith
Donald E. Smith
Jean M. Smith
Karen K. Smith
Patricia L. Smith
Sue Ann Smith
Thomas Wayne Smith
William C. Smith
David A. Rose, Sr.
James P. Cazalas, Sr.
Wesley R. Beech, Sr.
Joye Spear
Louie B. Spear

Vicki H. Stanley
Joseph H. Lofton Stephen
James V. Stowe
Juanita R. Stowe
Wilanne S. Stowe
Essie Lee Taylor
Ruby M. Taylor
Betty B. Tedder
Julian Tedder
Barry Thompson
Jimmy A. Thornton
Carol Townsend
Mike Townsend
Lottie Trest
William C. Trest
Jesse M. Turner
Robert A. Vanek
Maurice Vautier
Joanne B. Voividich
Ruby Walker
Edna Watford
James F. Watford
Lois Watford
Roy A. Watford
Clyde Watson
Rosemarie P. Watson
Rubbie Wheeler
Gloria Whigham
Henry D. Whigham
Beatrice White
James B. White
Donald R. Willaims
Olga N. Williams
James F. Willis, Sr.
Anita D. Willis
Juanita Wilson
Norris F. Woodard

Lois M. Woodard
James E. Wooley
Linda C. Wooley

R. RICHARDSON

Rubey S. Posey
& Alfred Posey

SIMS

Margaret (Peggy) Adair
Albert H. Adams, Jr.
Elisse T. Adams
Audrey Addicks
David Addicks
Eugene Addicks
Mark Addicks
Monica Addicks
Ramona Addicks
Jeffrey S. Albritton
Anthony E. Allen
Carol Allen
Michael Allen
Nancy Allen
Cecil Anthony
Marjorie Anthony
David Arbo
Joann Arbo
William Arbo
Rhonda Arnold
Richard Arnold
Jean Baerlin
Jane Baggett
Helen Baker
Kathleen Baker
Ralph Baker
Stephen Baker
Lisa Ballard

Robbie Ballard
Raymond D. Barbour
Ruby Barrett
Mary Bass
Rita Bates
Robert A. Bates
Donna Beasley
Doris Beasley
Horace E. Beasley
Terry W. Beasley
Paul E. Beeson
Ina H. Bekcer
Jerry Bell
Sharon Bell
Annie Bennett
James Bennett
Robbie Bethea
Marvin Bodiford
Nancy Bodiford
Ruby Bodiford
Elzy Booker
Helen Booker
James Bosarge
Mary Bosarge
Sybil Bosarge
Dorothy Boutwell
Kenneth Boutwell
George B. Bradford
Donna Bradley

Glen Bradley
Murray Brigham
John Bright
Christine Britt
Francis Broadus
Joseph Broadus
Carolyn Brooks
Paul Brooks
Byron Brown
Margaret Brown
Ronald Brown
Virginia Brown
Walter Ray Brown
Peggy Bryant
Gladys Burgdorf
Richard Burgdorf
Tommy A. Burke
Delana Bush
James Bush
Christine Butler
Audrey G. Byrd
Gregory Byrd
Lula M. Byrd
Mildred Byrd
Warren Byrd
Willoughby Byrd
Joseph Carlisle
Patsy Chapman
Tommy Chapman
Clarence Chatom
Gloria Chatom
Sue Chism
William R. Chism
Rhonda Clark-Hall
Sue Coley
Leila S. Collier

Leon W. Collier
Joyce D. Collins
Betty P. Connell
Alice J. Cooley
Leon N. Cooley
Mary Cox
Wilton Cox
Harold Crowder
Monette Crowder
F.A. Davis
Mary Davis
Pamela Davis
Patricia Davis
Ronald Davis
Scott Davis
Charles Day
Kay Day
Lillian G. Day
Linda Morris Dennis
B.F. Dismukes
Grace A. Dixon
Dorothy Dobbins
Helen Donald
Herbert Donald
Michael Donald
Carolyn Driskell
Nathan Driskell
Albert Drummond
Dorothy Dunagan
Charles Dunklin
June Dunklin
Don Dunn
Lenora Dunn
Hazel Dysart
Jacob Elmore
Matha Elmore
Theda S. Enfinger

Donna England
 Melvin England
 Dorothy Eslava
 Ada Evans
 Darrell Evans
 Doris Evans
 David Faggard
 Nathalee Faggard
 Gerald C. Foster
 Gladys M. Foster
 Kay F. Freel
 Robert Fryer
 Kathleen Garner
 Beatrice Garrison
 Mazie Gartman
 Betty Gates
 William Gates
 Helen Gazzier
 Johnny Gazzier
 Edgar Gettz
 Roberta Gettz
 Brenda H. Godfrey
 Lawrence Green
 Betty Griffin
 George T. Griffin
 Annette Grissett
 Lary Grissett
 Joe Gurganus
 Sheila Gurganus
 Waylond Halcomb
 Willie Halcomb
 Catherine Hall
 Darryl Hall
 Gladys Hannah
 William Hannah
 Marilyn Harbison

Winston Harbison
 Mark Harding
 Bonnie Harris
 Carey Harris
 William M. Harris
 Mike Harrison
 Karen Hassell
 William Hassell
 John Hawseu [sic]
 Katherine Hawsey
 Inez Headrick
 Leo Headrick
 Lois Hebert
 Francise Hervert
 Christine L. Hicks
 William Howell
 Clark Hobson
 Alvin Hoffman
 Glenda Hoffman
 Fred Holley
 Kathleen Holloway
 Claudia Holmes
 Levi Hopkins
 Randall S. Hopkins
 Cindy House
 Emma House
 Preston House
 Tommy House
 Faye Howell
 David Howton
 Doris Howton
 Anna Huber
 Hubert Huber
 Grady Nichols, III
 Jean Nichols, III
 Charles Ingram
 John Irving

James (Keith) Jackson
 Mary Jackson
 James Jeffcoat
 Martha Jeffcoat
 Annie L. Jennings
 Jimmie Johnson
 Luther Johnson
 Inez Jones
 Jimmy Jones
 Albert McFadden, Jr.
 Frederick Moore, Jr.
 Garland Pressley, Jr.
 James H. Britt, Jr.
 Gary M. Kelley
 H.E. Kelley
 Marcelle Kelley
 James Kendrick
 Charles D. Kittrell
 Elwood Kittrell
 Wynnonia Kittrell
 Gail LaForce
 Steven LaForce
 Hilda A. Lambeth
 Paul C. Lambeth
 Beatrice W. Lamey
 Carla Lamey
 John Tom Lamey
 John H. Lamey
 Madelaide Lamey
 Robert Lamey
 Nita Lancaster
 Janice Lane
 Anna Laura
 Clement Laura
 Betty Lester
 George Lester

Floyd Lewis
 R.V. Lofton
 Angie Logan
 Blaine Logan
 Jerry Loper
 Virginia Loper
 Florence Lumpkin
 Curtis James Mallon
 Pearl Mallon
 Edna Malone
 Jamice Mareno
 Mary Martin
 Melton Martin
 Alan Mashburn
 Davis Mashburn
 Patricia Mashburn
 Robert Mashburn
 Henry McCauley
 Martha McCauley
 Francis McDonald
 Joe McEarchern
 Melissa Mcfadden [sic]
 Albert McFadden
 Dawn McLean
 Deborah Meadows
 Mark Meadows
 Margaret Melech
 Joyce Middleton
 Terrell Middleton
 John Miller
 Nancy Miller
 Ola V. Miller
 Velma Miller
 Timothy H. Mills
 Mary C. Mixon
 Sharon Moffat
 Ted W. Moffat

Lola Moiren
 Curtis Moon
 Derwood Morgan
 Janet Mosley
 George Muscat
 Susan Muscat
 Melissa Nall
 Caleb Necaise
 Judy Necaise
 Essie Neilson
 Charles Nunnery
 Melissa Overstreet
 Mitchell Overstreet
 Mike A. Pace
 Ann Parden
 Lonnie Parden
 William Patronas
 Dorothy Perry
 Georgia Louise Pierce
 Marian Pierce
 Bama Pitt
 William Pitt
 J.M. Pitts
 Mary Pitts
 Maylean Powell
 Garland Pressley
 Janice Pressley
 Douglas Previto
 Edith Previto
 Mary Price
 Roy Price
 Willard P. Price
 Voncile L. Pritchett
 Gloria Pruett
 John Pruett
 Nancy Raines

Catherine Raymond
 James Raymond
 Carol Reeves
 John Reeves
 Carolyn Roberts
 Sharon Robertson
 Tianna L. Robertson
 Yvonne Ross
 Ethel Sansom
 Barbara Schottgen
 Seelhorst
 Jim Sheffield
 Thomas Shoemaker
 Anita Sisson
 D.W. Sisson
 Mavis Smith
 Judy Spears
 Frank Kruse, Sr.
 Gwilyn Johnson, Sr.
 Jean P. Stephen
 Elmer Steward
 Mary Ann Steward
 T. Weston Stewart
 Janis Story
 Grace J. Taylor
 Mary F. Thompson
 William Thrower
 Sylvia Walton
 Eastman Weaver
 Marilyn Weaver
 Edith White
 James White
 Stephanie Williams

SIROTE

Jeffrey S. Albritton
 Anthony E. Allen
 Carol Allen
 Jean Baerlin
 Roberta Bates
 Rita Bates
 Horace E. Beasley
 Doris Beasley
 Terry W. Beasley
 Donna Beasley
 Ina H. Becker
 Paul E. Beeson
 James Bennett
 Annei Bennett
 Elzy Booker
 Helen Booker
 George B. Bradford
 Glen Bradley
 Donn Bradley
 Christine Britt
 James H. Britt, Jr.
 Byron Brown
 Walter Ray Brown
 Margaret Brown
 Tommy A. Burke
 Willoughby Byrd
 Lula M. Byrd
 Mildred Byrd
 Gregory Byrd
 Tommy Chapman
 Patsy Chapman
 William R. Chism
 Sue Chism
 Leon W. Collier
 Leila S. Collier

Leon N. Cooley
 Alice J. Cooley
 Wilton Cox
 Mary Cox
 Linda Morris Dennis
 Dorothy Dunagan
 Chrles [sic] Dunklin
 June Kunklin [sic]
 Dorothy Eslava
 Gerald C. Foster
 Gladys M. Foster
 George T. Griffin
 Betty Griffin
 William M. Harris
 Leo Headrick
 Inez Headrick
 Levi Hopkins
 Bandall S. Hopkins
 Emma House
 Preston House
 Tommy House
 Cindy House
 William Howell
 Faye Howell
 John Irving
 Annie L. Jennings
 Gary M. Kelley
 H.E. Kelley
 Marcelle Kelley
 Steven LaForce
 Gail LaForce
 Paul C. Lambeth
 Hilda A. Lambeth
 John H. Lamey
 Madelaide Lamey
 Carla Lamey

Robert Lamey
 John Tom Lamey
 Beatrice W. Lamey
 George Lester
 Betty Lester
 Florence Limpkin
 Curtis James Mallon
 Pearl Mallon
 Terrell Middleton
 Joyce Middleton
 Ola V. Miller
 Vema Miller
 Ted W. Moffat
 Sharon Moffat
 Curtis Moon
 George Muscat
 Susan Muscat
 Judy Necaise
 Caleb Necaise
 Essie Neilson
 Lonnie Parden
 Ann Parden
 William Patronas

THIRY/CADDELL

Florence W. Clayton
 Thurman F. Clayton
 Wayne F. Clayton
 Iveynelle Clayton
 James F. Small
 Karen H. Small
 Woodrow Johnston
 Gladys D. Johnston

Maylean Powell
 Voncile L. Pritchett
 Tianna L. Robertson
 Jem Sheffield
 Judy Spears
 Jean P. Stephen
 Joe N. Stephen
 Barry Thompson
 Jimmy A. Thornton
 Mike Townsend
 Carol Townsend
 Maurice Vautier
 James F. Watford
 Lois Watford
 Roy A. Watford
 Edna Watford
 Clyde Watson
 Rosemarie P. Watson
 Bubbie Wheeler
 James B. White
 Beatrice White
 Juanita Wilson

WATSON

Harvey M. Young, Jr.

WILSON/KING

James E. Haynes
 David R. Short

YEAROUT/MYERS

Alfred Hancock
 Elvis D. Ray
 Magoline Ray
 Randall L. Gardner

EXHIBIT: 19VOLUME: 21

IN THE CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
CLAYTON DIVISION

| | | |
|--|---|--------------|
| CHARLIE FRANK ROBERTSON, |) | |
| individually and on behalf of a class, |) | |
| Plaintiffs, |) | |
| |) | CIVIL ACTION |
| v. |) | NO. CV92-021 |
| |) | |
| LIBERTY NATIONAL LIFE |) | |
| INSURANCE COMPANY, |) | |
| Defendant |) | |

EXHIBITS TO
LIBERTY NATIONAL'S STATEMENT OF FACTS,
EVIDENCE AND AUTHORITIES IN SUPPORT
OF PROPOSED CLASS ACTION SETTLEMENT

James W. Gewin
Michael R. Pennington
Horace G. Williams
Attorneys for Liberty National
Life Insurance Company

OF COUNSEL:

Bradley, Arant, Rose & White
1400 Park Place Tower
Birmingham, AL 35243
(205) 521-8000

OF COUNSEL:

Horace Williams, Esq.
125 South Orange Ave.
Post Office Box 896
Eufala, AL 36072-0896

CHARLIE FRANK ROBERTSON V LIBERTY NATIONAL
BARBOUR COUNTY/CV-92-021

Index of Objectors Filed After October 10, 1993

OBJECTORS APPEARING ON THEIR OWN BEHALF

Irene H. McCullough 11/01/93

ARMBRECHT/JACKSON

| | |
|--------------------|------------------------|
| Hubert Bullington | <u>Served 11/09/93</u> |
| Ruth Bullington | |
| Ellis Harwell | |
| Joyce Harwell | |
| Gussie Johnson | |
| Willa Johnson | |
| Fred Lewter | |
| Linda Lewter | |
| James R. McGahagin | |
| David W. Mooney | |
| David Nelson | |
| Rebekah Oliver | |
| Geneva Parden | |
| Rosa Lee Prosser | |
| Jean M. Sullivan | |
| James R. Swilley | |
| Linda S. Swilley | |

ALEXANDER/CORDER

Betty Ann Eckles Served 12/7/93

BURR/FORMAN

Virginia H. Knight Served 12/2/93

GAISER/O'NEAL
JOHNSON/CORY

Lish U. Ellis Served 10/27/93
 Malinda Ellis
 Delores B. Forman
 Robert L. Forman
 Pamela Monroe
 Ray Monroe
 Joan Thrasher Served 11/18/93

GARDNER/MIDDLEBROOKS

Raymond Ellsworth Served 11/17/93
 Vice Ellsworth
 Charles Horton
 Georgia Horton
 Edgar Miller
 Ellen Miller
 Janet Richardson
 Jennifer Smith
 Steven Smith
 Leslie Young
 Lucille Young

GILLION/BROOKS

Betty Pratt Served 12/2/93
 Wiley Pratt

GLIDEWELL

Herman Jackson Served 11/04/93
 Minnie Lee Jackson

HAND/ARENDALL

Helen H. Day Served 11/8/93
 (Executrix/R.H. Day, Deceased)
 Mrs. Maurice E. Perkins, Jr.

IRBY

Merle L. Corcoran Served 11/05/93
 Janie D. Devose
 Ruby C. Ezell
 Richard Kelly
 Edward L. Lindsey
 Cheryl G. Louder
 John N. Matthews
 Frankie G. McLain
 Theresa C. Norton
 Arnetta G. O'hara
 Shirley A. Ragan
 Mary L. Stimpson
 James K. Williamson

Grace Williamson Served 11/12/93

MCFADDEN/LYON

Rosemary B. Latham Served 10/27/93
 (Executrix of Estate):
 James A. Latham, Jr.
 Rosemary B. Latham,
 Carl R. Latham
 Mary K. Latham

Julian M. Brown Served 11/04/93
 Augustus C. Schambeau Served 11/04/93

MAPLES/LOMAX

Clydia Alford Served 11/29/93
 Betty Crawley
 Vester Crawley
 Oleta Davis
 Prentiss Davis
 Fern Garriga
 Ray Robert Garriga
 Luby Peterson
 Others (Joe Doe)

OLEN/MCGLOTHREN

James Elmore Served 10/27/93

Ruth Elmore
Ann Jacobson
Malcolm Nicholas
Vivian Nicholas
Paulette Wilson
Roger Wilson

Tony Hopper Served 11/02/93

Anita Hopper
Ernest Rhone
Arther Williams
Lena Williams

Thomas Beck Served 11/04/93

Peggy Chappelle
William Chappelle
Esther Crabtree
Debra Dickerson
James Faircloth
Nettie Helton -
Dores E. James
Jimmy G. James
William H. Bostic, Jr.
George Nicholas
Hazel Nicholas
Felix F. Reynolds
Lori Reynolds

Jewel Hollingsworth Served 11/05/93

Pelham Hollingsworth
Andrew Howle
Dewanna Howle
Martha Partidge

Charles B. Duckworth Served 11/08/93

Mary Duckworth
Emanuel Gazzier

Gloria Gazzier
Andrew J. Howle
Betty P. Howle
Darrell D. Ladnier
Paula Michelle Ladnier
A. C. Vickery

Mazel Cowart Served 11/12/93

Michael D. Evans
Teresa Evans
Elmore Harvison
Jimmy Harvison
W. Ruth Harvison
Willie Dee Harvison
Opal Herm
Billy C. Hoven
Kathy Hoven
Cathy Howard
Clarence W. Coleman, Jr.
Thomas W. Kelly
Vicky Kelly
Barbara Kohn
Clyde Kohn
Bessie Tipp

Ken Brown Served 11/19/93

Harriet Brown

Grover Bowdin Served 11/29/93

Mary C. Bowdin
Cooper Cowart
Mazel Cowart
Franklin Wood, Jr.
Cecil R. Trawick
Peggy Trawick
Franklin Wood
Violet Wood

Norman Dicken Served 12/2/93
Lynn Fillingim

Joseph G. Loftin
Wanda R. Loftin
Michelle Mayberry

Evelyn Harris
John L. Harris, Jr.

Served 12/7/93

SHERLING/BROWNING

John M. Calogrides
Mary L. Calogrides

Served 11/03/93

**IN THE CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
CLAYTON DIVISION**

CHARLIE FRANK ROBERTSON,)
individually and on behalf of a)
class,)

Plaintiffs,)

v.)

LIBERTY NATIONAL LIFE)
INSURANCE COMPANY,)

Defendants.)

Civil Action No.
92-021

STATE OF GEORGIA)
FULTON COUNTY)

AFFIDAVIT OF KRISTIE K. SAYRE

Before me, the undersigned Notary Public in and for said county in said state, personally appeared Kristie K. Sayre, who being known to me and having been by me first duly sworn on oath, deposes and says as follows:

1. My name is Kristie K. Sayre. I have personal knowledge of the matters set forth in this affidavit based upon my education, my experience as an actuary, my experience in the insurance business, and based upon materials I have reviewed and the work I have performed over the last several months relating to cancer policies of Liberty National Life Insurance Company ("Liberty National"). My education, professional experience and qualifications as an actuary include the following:

a. I am employed at Tillinghast, a division of Towers Perrin as an actuarial consultant. Tillinghast is an actuarial consulting firm with offices in different cities in the United States and also in other countries. Tillinghast provides actuarial consulting services for a variety of different clients, private and governmental, related to the insurance industry. My business address is Tillinghast, One Atlanta Plaza, 950 East Paces Ferry Road, Atlanta, Georgia 30326-1119. I reside in Alpharetta, Georgia.

b. In 1973 I obtained a Bachelor of Science degree in mathematics from Furman University. From 1973-1975 I did additional academic work at the graduate level in the field of probability and statistics at Clemson University. From approximately 1975-1983, I was employed in the insurance industry and worked in various areas of the insurance business, including product development work relating to cancer insurance policies. My last position in the insurance industry was with Liberty Life Insurance Company of Greenville, South Carolina where I was serving as supervisor in charge of the Actuarial Services Division, where I supervised the personnel in that department in performing actuarial work. In approximately 1983 I left Liberty Life and joined the actuarial consulting firm of Sayre & Sayre, where we did consulting work primarily in the field of health insurance and life insurance. I worked as a consultant with Sayre & Sayre until 1992 when I joined Tillinghast as a consulting actuary. My work with Tillinghast includes consulting work for the health insurance and life insurance industry. My specialties include individual health insurance, product development and valuation.

c. I have been a Fellow of the Society of Actuaries since 1982 when I completed the nine examinations which were then required in order to become a Fellow. I currently serve on the exam committee of the Society of Actuaries which is responsible for the examination relating to individual health insurance. I am also the immediate past President of the Southeastern Actuaries Club, and I have served on its executive committee since 1987. I am also a member of the American Academy of Actuaries, which is the organization which governs the standards of actuarial practice in the United States.

d. I have been retained as an expert witness or consultant in connection with various litigation matters. I have been retained by the Internal Revenue Service and the Department of Justice on more than one occasion concerning taxation issues with respect to insurance companies. I have also testified as an expert in connection with private litigation involving actuarial issues related to insurance. Throughout most of my career as an actuary I have been involved in various aspects of health insurance, including cancer insurance, and I have performed consulting work for a variety of clients relating to cancer insurance and other types of health insurance.

2. I was retained on behalf of Liberty National to analyze certain cancer insurance policies and render an opinion on the relative value of the aggregate benefits of those Liberty National cancer policies. I was provided specimen copies of two Liberty National cancer policies issued prior to 1986 (the "old policies") and copies of two cancer policies issued by Liberty National in 1986 or thereafter (the "new policies"). Applying my education, training and experience in the actuarial field, particularly

including my experience with cancer policies, I evaluated the benefits under the different policies at different points in time and at different issue ages. I applied a method which I considered the most direct and best method for comparing the aggregate benefits of the different policies, and in my opinion the method I applied was a sound and accurate approach to this analysis. The basic source data for much of my work was the 1985 NAIC Cancer Claims Costs Tables, which are tables that are based on industry experience under cancer insurance plans. They were prepared by a committee working in conjunction with the National Association of Insurance Commissioners. The NAIC cancer tables are such that they can be changed for various benefit levels, assuming the benefit is one that is included in the tables, and they can be adjusted for different points in time after 1985. In addition, I relied in part upon reliable internal computer programs and other internal data of my firm, Tillinghast. Other Tillinghast employees assisted in this project, including one actuary who was involved in developing the tables which were the predecessor tables to the 1985 NAIC cancer tables. As is customary in actuarial work, I also applied my professional judgment where appropriate in developing the relative values.

3. Based on my training, education, experience and my work in connection with this analysis, it is my opinion that the old policies which I examined had fewer benefits in the aggregate than the new policies I examined. Stated otherwise, the value of the benefits in any of the old policies was less than the value of the benefits in any of the new policies I examined. The comparisons I made were to compare two old policies known as policy

form numbers 579 and 7023, which I compared to two new policy forms, policy form numbers 5GJ and 5GS. Attached hereto as Exhibit A is a summary we prepared showing the relative value of aggregate benefits between two of the policies at different points in time and at different ages. I compared form 579 and form 7023 to form 5GJ in both 1987 and 1992. I also compared form 579 and form 7023 to form 5GS in both 1987 and 1992. The figures shown on Exhibit A are the relative values of the aggregate benefits under each policy, but I arrived at these relative values by analyzing the individual benefits provided in each of the respective policies and then arrived at a total or aggregate value for each of the respective policies. As will be seen on Exhibit A, the benefits under the old policies (forms 579 and 7023) had a lesser aggregate value than the benefits under the new policies known as forms 5GJ and 5GS at each of the different ages in both 1987 and 1992. For example, as is shown on Exhibit A, in 1987 at issue age 55 the ratio of the net level cost for policy form 579 to the net level cost for policy form 5GJ was 45.4%. Copies of policy forms 579, 7023, 5GJ and 5GS are attached hereto as Exhibits B, C, D and E, respectively.

4. Based on my work in comparing relative aggregate benefits of these policies, it is my opinion that the population of persons (policyholders) purchasing either of these new policies (5GJ and 5GS) would be expected to receive significantly greater aggregate benefits under the new policies than under either of the old policies. Stated otherwise, any given policyholder who purchased one of

the new policies would be expected to receive significantly greater benefits under either of the new policies than under either of the old policies.

5. I am aware from my examination of these policies that neither of the old policy forms 579 or 7023 contained the limitations on radiation and chemotherapy which are found in the new policies and that the new policies do not have the coverage for non-cancer fighting prescription drugs. However, the additional benefits in the new policies which were not included at all in either of the old policies, as well as the increases in other benefits in the new policy, cause the new policies to have a significantly greater aggregate value of benefits than the old policies.

6. In my opinion at least 95% of insureds holding the new policies who would file claims would fare better under the new policies than under the old policies.

7. Further, deponent sayeth not.

/s/ Kristie K. Sayre
Kristie K. Sayre

Sworn to and subscribed before me on this the 28 day of October, 1993.

/s/ Elizabeth W. Shutt
Notary Public

Notary Public DeKalb County,
Georgia My Commission Expires
September 9, 1996

LIBERTY NATIONAL LIFE INSURANCE COMPANY

Cancer Net Level Cost Comparison*

| Issue Age | 1987 Net Level Cost | | | | | | | Policy Count | 1992 Net Level Cost | | | | | |
|------------------|---------------------|----------|---------------|-----------|----------|---------------|----------|--------------|---------------------|---------------|-----------|----------|---------------|--|
| | Form 579 | Form 5GJ | Ratio Old/New | Form 7023 | Form 5GJ | Ratio Old/New | Form 579 | | Form 5GJ | Ratio Old/New | Form 7023 | Form 5GJ | Ratio Old/New | |
| 15 | \$5.40 | \$11.37 | 47.5% | \$6.31 | \$11.37 | 55.5% | 308 | \$8.14 | \$13.37 | 60.8% | \$9.05 | \$13.37 | 67.6% | |
| 20 | 6.53 | 13.99 | 46.7% | 7.66 | 13.99 | 54.8% | 4,710 | 9.86 | 16.43 | 60.0% | 10.99 | 16.43 | 66.9% | |
| 25 | 8.83 | 19.10 | 46.2% | 10.39 | 19.10 | 54.4% | 7,495 | 13.33 | 22.41 | 59.5% | 14.89 | 22.41 | 66.5% | |
| 30 | 12.40 | 26.09 | 47.5% | 14.53 | 26.09 | 55.7% | 9,674 | 18.84 | 30.85 | 61.1% | 20.98 | 30.85 | 68.0% | |
| 35 | 17.83 | 37.08 | 48.1% | 20.90 | 37.08 | 56.4% | 8,799 | 27.15 | 43.95 | 61.8% | 30.22 | 43.95 | 68.8% | |
| 40 | 25.24 | 52.33 | 48.2% | 29.63 | 52.33 | 56.6% | 7,013 | 38.42 | 62.04 | 61.9% | 42.81 | 62.04 | 69.0% | |
| 45 | 34.46 | 72.37 | 47.6% | 40.66 | 72.37 | 56.2% | 7,701 | 52.19 | 85.42 | 61.1% | 58.39 | 85.42 | 68.4% | |
| 50 | 44.21 | 95.20 | 46.4% | 52.61 | 95.20 | 55.3% | 5,966 | 66.43 | 111.53 | 59.6% | 74.83 | 111.53 | 67.1% | |
| 55 | 54.73 | 120.65 | 45.4% | 65.61 | 120.65 | 54.4% | 4,595 | 81.60 | 140.35 | 58.1% | 92.48 | 140.35 | 65.9% | |
| 60 | 64.32 | 145.01 | 44.4% | 77.60 | 145.01 | 53.5% | 5,287 | 95.16 | 167.57 | 56.8% | 108.44 | 167.57 | 64.7% | |
| 65 | 71.30 | 164.97 | 43.2% | 86.63 | 164.97 | 52.5% | 4,410 | 104.58 | 189.25 | 55.3% | 119.90 | 189.25 | 63.4% | |
| 70 | 74.22 | 177.62 | 41.8% | 91.02 | 177.62 | 51.2% | 2,935 | 107.68 | 201.93 | 53.3% | 124.46 | 201.93 | 61.6% | |
| 75 | 73.47 | 184.30 | 39.9% | 91.29 | 184.30 | 49.5% | 1,505 | 104.93 | 207.02 | 50.7% | 122.74 | 207.02 | 59.3% | |
| Weighted Average | 32.90 | 72.88 | 45.1% | 39.40 | 72.88 | 54.1% | | 49.02 | 84.70 | 57.9% | 55.52 | 84.70 | 65.5% | |

| Issue Age | 1987 Net Level Cost | | | | | | | Policy Count | 1992 Net Level Cost | | | | | |
|------------------|---------------------|----------|---------------|-----------|----------|---------------|----------|--------------|---------------------|---------------|-----------|----------|---------------|--|
| | Form 579 | Form 5GS | Ratio Old/New | Form 7023 | Form 5GS | Ratio Old/New | Form 579 | | Form 5GS | Ratio Old/New | Form 7023 | Form 5GS | Ratio Old/New | |
| 15 | \$5.40 | \$13.90 | 38.9% | \$6.31 | \$13.90 | 45.4% | 308 | \$8.14 | \$16.01 | 50.8% | \$9.05 | \$16.01 | 56.5% | |
| 20 | 6.53 | 17.14 | 38.1% | 7.66 | 17.14 | 44.7% | 4,710 | 9.86 | 19.70 | 50.0% | 10.99 | 19.70 | 55.8% | |
| 25 | 8.83 | 23.46 | 37.6% | 10.39 | 23.46 | 44.3% | 7,495 | 13.33 | 26.93 | 49.5% | 14.89 | 26.93 | 55.3% | |
| 30 | 12.40 | 31.95 | 38.8% | 14.53 | 31.95 | 45.5% | 9,674 | 18.84 | 36.94 | 51.0% | 20.98 | 36.94 | 56.8% | |
| 35 | 17.83 | 45.27 | 39.4% | 20.90 | 45.27 | 46.2% | 8,799 | 27.15 | 52.49 | 51.7% | 30.22 | 52.49 | 57.6% | |
| 40 | 25.24 | 63.83 | 39.5% | 29.63 | 63.83 | 46.4% | 7,013 | 38.42 | 74.03 | 51.9% | 42.81 | 74.03 | 57.8% | |
| 45 | 34.46 | 88.36 | 39.0% | 40.66 | 88.36 | 46.0% | 7,701 | 52.19 | 102.07 | 51.1% | 58.39 | 102.07 | 57.2% | |
| 50 | 44.21 | 116.52 | 37.9% | 52.61 | 116.52 | 45.2% | 5,966 | 66.43 | 133.66 | 49.7% | 74.83 | 133.66 | 56.0% | |
| 55 | 54.73 | 148.07 | 37.0% | 65.61 | 148.07 | 44.3% | 4,595 | 81.60 | 168.76 | 48.4% | 92.48 | 168.76 | 54.8% | |
| 60 | 64.32 | 178.49 | 36.0% | 77.60 | 178.49 | 43.5% | 5,287 | 95.16 | 202.18 | 47.1% | 108.44 | 202.18 | 53.6% | |
| 65 | 71.30 | 203.70 | 35.0% | 86.63 | 203.70 | 42.5% | 4,410 | 104.58 | 229.20 | 45.6% | 119.90 | 229.20 | 52.3% | |
| 70 | 74.22 | 220.11 | 33.7% | 91.02 | 220.11 | 41.4% | 2,935 | 107.68 | 245.65 | 43.8% | 124.46 | 245.65 | 50.7% | |
| 75 | 73.47 | 229.37 | 32.0% | 91.29 | 229.37 | 39.8% | 1,505 | 104.93 | 253.24 | 41.4% | 122.74 | 253.24 | 43.5% | |
| Weighted Average | 32.90 | 89.56 | 36.7% | 39.40 | 89.56 | 44.0% | | 49.02 | 101.97 | 48.1% | 55.52 | 101.97 | 54.4% | |

* Represents the net level cost to the company of providing the benefits under the policy.

SAYRE
Exhibit A

LIBERTY NATIONAL LIFE INSURANCE COMPANY

Cancer Claim Cost Comparison

| Attn Age | 1987 Annual Claims Costs | | | | | |
|-------------|--------------------------|-------------|------------------|--------------|-------------|------------------|
| | Form 579 | Form 5GJ | Ratio Old/New | Form 7023 | Form 5GJ | Ratio Old/New |
| 15 | \$4.34 | \$8.86 | 49.0% | \$5.04 | \$8.86 | 56.9% |
| 20 | 4.24 | 8.74 | 48.5% | 4.92 | 8.74 | 56.3% |
| 25 | 4.76 | 10.84 | 43.9% | 5.63 | 10.84 | 51.9% |
| 30 | 6.41 | 14.24 | 45.0% | 7.55 | 14.24 | 53.0% |
| 35 | 9.32 | 19.68 | 47.4% | 10.88 | 19.68 | 55.3% |
| 40 | 14.54 | 29.55 | 49.2% | 16.90 | 29.55 | 57.2% |
| 45 | 23.03 | 46.02 | 50.0% | 26.71 | 46.02 | 58.1% |
| 50 | 32.56 | 66.92 | 48.7% | 38.19 | 66.92 | 57.1% |
| 55 | 44.11 | 93.94 | 47.0% | 52.36 | 93.94 | 55.7% |
| 60 | 56.95 | 124.23 | 45.8% | 68.10 | 124.23 | 54.8% |
| 65 | 68.60 | 153.42 | 44.7% | 82.59 | 153.42 | 53.8% |
| 70 | 75.83 | 174.52 | 43.5% | 91.99 | 174.52 | 52.7% |
| 75 | 77.05 | 185.65 | 41.5% | 94.62 | 185.65 | 51.0% |

| 1992 Annual Claims Costs | | | | | |
|--------------------------|-------------|------------------|--------------|-------------|------------------|
| Form 579 | Form 5GJ | Ratio Old/New | Form 7023 | Form 5GJ | Ratio Old/New |
| \$6.51 | \$10.45 | 62.3% | \$7.21 | \$10.45 | 68.9% |
| 6.41 | 10.32 | 62.1% | 7.09 | 10.32 | 68.6% |
| 7.08 | 12.53 | 56.5% | 7.96 | 12.53 | 63.5% |
| 9.62 | 16.61 | 57.9% | 10.75 | 16.61 | 64.7% |
| 14.19 | 23.27 | 61.0% | 15.75 | 23.27 | 67.7% |
| 22.33 | 35.29 | 63.3% | 24.69 | 35.29 | 69.9% |
| 35.40 | 55.15 | 64.2% | 39.08 | 55.15 | 70.9% |
| 49.64 | 79.52 | 62.4% | 55.26 | 79.52 | 69.5% |
| 66.51 | 110.43 | 60.2% | 74.77 | 110.43 | 67.7% |
| 85.17 | 144.93 | 58.8% | 96.32 | 144.93 | 66.5% |
| 101.70 | 177.67 | 57.2% | 115.69 | 177.67 | 65.1% |
| 111.35 | 200.45 | 55.5% | 127.50 | 200.45 | 63.6% |
| 111.54 | 210.70 | 52.9% | 129.11 | 210.70 | 61.3% |

| Attn Age | 1987 Annual Claims Costs | | | | | |
|-------------|--------------------------|-------------|------------------|--------------|-------------|------------------|
| | Form 579 | Form 5GS | Ratio Old/New | Form 7023 | Form 5GS | Ratio Old/New |
| 15 | \$4.34 | \$10.81 | 40.1% | \$5.04 | \$10.81 | 46.6% |
| 20 | 4.24 | 10.60 | 40.0% | 4.92 | 10.60 | 46.4% |
| 25 | 4.76 | 13.39 | 35.5% | 5.63 | 13.39 | 42.0% |
| 30 | 6.41 | 17.60 | 36.4% | 7.55 | 17.60 | 42.9% |
| 35 | 9.32 | 24.14 | 38.6% | 10.88 | 24.14 | 45.1% |
| 40 | 14.54 | 36.02 | 40.4% | 16.90 | 36.02 | 46.9% |
| 45 | 23.03 | 55.93 | 41.2% | 26.71 | 55.93 | 47.8% |
| 50 | 32.56 | 81.49 | 40.0% | 38.19 | 81.49 | 46.9% |
| 55 | 44.11 | 114.74 | 38.4% | 52.36 | 114.74 | 45.6% |
| 60 | 56.95 | 152.28 | 37.4% | 68.10 | 152.28 | 44.7% |
| 65 | 68.60 | 188.72 | 36.3% | 82.59 | 188.72 | 43.8% |
| 70 | 75.83 | 215.45 | 35.2% | 91.99 | 215.45 | 42.7% |
| 75 | 77.05 | 230.27 | 33.5% | 94.62 | 230.27 | 41.1% |

| 1992 Annual Claims Costs | | | | | |
|--------------------------|-------------|------------------|--------------|-------------|------------------|
| Form 579 | Form 5GS | Ratio Old/New | Form 7023 | Form 5GS | Ratio Old/New |
| \$6.51 | \$12.49 | 52.1% | \$7.21 | \$12.49 | 57.7% |
| 6.41 | 12.26 | 52.3% | 7.09 | 12.26 | 57.8% |
| 7.08 | 15.17 | 46.7% | 7.96 | 15.17 | 52.4% |
| 9.62 | 20.09 | 47.9% | 10.75 | 20.09 | 51.5% |
| 14.19 | 27.91 | 50.8% | 15.75 | 27.91 | 51.4% |
| 22.33 | 42.05 | 53.1% | 24.69 | 42.05 | 58.7% |
| 35.40 | 65.52 | 54.0% | 39.08 | 65.52 | 59.7% |
| 49.64 | 94.72 | 52.4% | 55.26 | 94.72 | 58.3% |
| 66.51 | 132.07 | 50.4% | 74.77 | 132.07 | 56.6% |
| 85.17 | 174.01 | 48.9% | 96.32 | 174.01 | 55.4% |
| 101.70 | 214.19 | 47.5% | 115.69 | 214.19 | 54.0% |
| 111.35 | 242.68 | 45.9% | 127.50 | 242.68 | 52.5% |
| 111.54 | 256.57 | 43.5% | 129.11 | 256.57 | 50.3% |

IN THE CIRCUIT COURT FOR
BARBOUR COUNTY, ALABAMA
Clayton Division

CHARLIE FRANK ROBERTSON,)

Plaintiff,)

v.)

LIBERTY NATIONAL LIFE)
INSURANCE COMPANY)

Defendant.)

CIVIL ACTION
NO.
CV-92-021

STATE OF NORTH CAROLINA
COUNTY OF FORSYTH

AFFIDAVIT OF W. H. ODELL

Before me, the undersigned Notary public in and for the State of North Carolina, personally appeared before me W. H. Odell who is known to me and who being by me first duly sworn on oath, deposes and says as follows:

1. My name is W. H. Odell, and I reside in Yadkin County, North Carolina. I am an adult, and I am competent to give this affidavit.

2. I am employed as a consulting actuary with Odell & Associates, Inc., Winston-Salem, North Carolina. Our firm provides actuarial services for various private and governmental entities related to the insurance industry and other entities concerned with bearing risk. My education includes a B.S. degree in Economics which I obtained in 1954 from Wharton School of Finance and Commerce, University of Pennsylvania. I have been employed by

Prudential Insurance Company of America (1954-64), Life of Georgia (1964-68), Commonwealth Life Insurance Company (1968-70) and Capital Holding Corporation (1971-72) in various actuarial and management positions, all of which related in some way to actuarial science and insurance. From 1972 to 1982, I was Senior Vice President of Boone & Company, an actuarial consulting firm in Winston-Salem. I have been with my present firm, Odell & Associates, Inc. since 1982. I have therefore, been employed in the field of actuarial services for 39 years, including twenty years as a consultant, in addition to my earlier employment summarized above. Over the years, I have provided advice and consultation to many different insurance companies and insurance regulatory agencies. As a result of my education, training and experience, I am very familiar with different types of insurance policies, particularly including cancer insurance (specified disease), major medical insurance, accident insurance, health insurance, and life insurance. Indeed, not only do insurance companies employ and utilize actuaries to evaluate risks, project costs, and establish policy reserves, and liabilities, various state governments also utilize actuaries to review policy reserves and liabilities established by insurance companies as well as rate filings, and to assist in the reformation and liquidation of insurance companies. The federal government employs actuaries to prepare estimates of future costs and advise on such matters as health care legislation.

3. I have been and am a member of various professional organizations. I am a member of the American Academy of Actuaries, a Fellow of the Society of Actuaries, an Associate of the Casualty Actuarial Society and a

Fellow of the Conference of Consulting Actuaries. In 1980-82, I served as chairman of the Committee on Health Insurance of the Academy, and in 1980-83 I was on its Board of Directors. In 1982-88, I was on the Board of Directors of the Conference and have chaired its Committee on Health Insurance since 1988. In 1983-1993, I served as Chairman of the Health Subcommittee of the Standing Technical Advisory Committee to National Association of Insurance Commissioners (NAIC) Life, Health and Accident Standing Technical Actuarial Task Force. I chaired an NAIC Advisory Committee which developed the 1985 NAIC Cancer Claims Costs Tables. Attached as Exhibit A is a true copy of my curriculum vitae which includes a summary of my educational background, my professional position and activities, papers and other published materials.

4. Counsel for Liberty National Life Insurance Company ("Liberty National") provided me with copies of different cancer policy forms which include copies of policies issued to plaintiff Charlie Frank Robertson. These policies including certain "old" policies, which provided unlimited benefits for radiation and chemotherapy (Form nos. 579-11-75, and 7023) and also certain "new" policies which had limited benefits for radiation and chemotherapy (Form nos. 5GJ Ed. 8-86 and 5GS Ed. 9-89). I was asked by counsel for Liberty National to study these two groups of cancer policies and compare the benefits provided in each policy. We were asked to present a means by which we could rank the aggregate benefits of each plan in relation to the others. We did so by calculating index numbers (see below). In my opinion, these index numbers (point values or relativities) fairly represent a

measure by which the aggregate benefits of the four plans can be compared to one another.

5. In the process of examining and comparing the "old" policies and the "new" policies, I consulted data from and utilized extensively the National Association of Insurance Commissioners ("NAIC"), namely, the data commonly known as the 1985 NAIC Cancer Claim Cost Tables, which is an authoritative source of information pertaining to cancer policies, and this data is regularly relied upon by actuaries and other experts in the insurance industry, particularly regarding cancer insurance policies. A true and correct copy of the NAIC data is attached hereto as Exhibit B and was used to develop the relative aggregate benefits provided by the policies referenced above. In addition to the NAIC data which together with experience, judgment, and information available in the normal course of our business, were by far the primary source utilized for our examination, certain supplemental resources listed in Exhibit C were also utilized. The attached Exhibit D presents a table showing index numbers or relativities indicating the relative value of the aggregate benefits of each plan (set of policies). Form 579-11-75 is used as a standard and is assigned a value of 1.0000. The index number determined for each of the other plans indicates the relative value of the benefits for the specified plan to the aggregate benefits for Form 579-11-75. For example, for July, 1988, the index number of 2.289 for Plan 5GJ Ed. 8-89 indicates its values are 2.289 times those of Plan 579-11-75.

6. Based on my education, training and experience, and my examination of the "old" and the "new" policies, and having consulted the data from the 1985 NAIC

Claims Cost Tables, I have reached several opinions, including the following:

(a) The "new" policies cover more and different types of expenses than the "old" policies, and generally the benefits are greater under the "new" policies than the "old" policies. Exhibit D (referenced above) ranks the aggregate benefits of each plan in relation to the others (using Plan 579-11-75 as a standard). It clearly shows the "new" plans provide greater aggregate benefit values than the "old" plans.

(b) The "new" policies are more modern cancer insurance policies considering the developments and changes in medical care and treatment of cancer. Attached as Exhibit E is a chart which I prepared which reflects the relative benefits. For example the "first occurrence" benefit not available under the "old" policies is \$2,000 under the first of the "new" policies and \$2,250 under the latter "new" policy. Similarly, hospital benefits are increased from \$30 per day plus \$100 per admission for hospitalization under the "old" policies to \$150 per day for the first 90 days and \$400 per day thereafter (under 5GS Ed. 9-89). Also, although some of the benefits in the new policies are not reflected in the 1985 NAIC Cancer Claim Cost Tables, the addition of the hospice and income replacement benefits are in response to the greater responsibility placed upon patients and their families for care outside of the traditional in hospital environment. The hospice benefit in particular is, in my opinion, an excellent example of a more modern cancer policy which reflects the increasing utilization of hospice care in the treatment of cancer.

(c) Considering the "old" policies as a group and the "new" policies as a group, the "new" policies can be expected to provide greater overall dollar benefits to the policyholder than the "old" policies. The greater number of types of expense covered and greater benefits for most all types of expenses provided by the "new" policies compared to the "old" far, far outweigh the effect of any limits applicable under the "new" policies to a few benefits which are not so limited in the "old" policies. This is clear from a review of the indices presented in Exhibit D.

(d) It is conceivable that there might be a relatively few individual cases where because of a particular pattern of expenses a particular patient might receive greater benefits under an "old" policy than under a "new" policy; but it is far more likely that a cancer patient would have greater benefits under a "new" policy. Of course to determine that any particular cancer patient would receive greater benefits under an "old" policy than the "new" policy, one would need to study the particular circumstances involving the nature of the cancer and the treatment provided to that particular patient and the actual charges therefore [sic]. It is clear, however, from the available actuarial data, a policyholder who exchanged an "old" policy for a "new" policy would be far more likely to receive greater benefits under the "new" policy.

7. Not only are the "new" policies better for a typical insured, the offering of "limited" benefit policies by Liberty National is consistent with the coverage offered by competitors of Liberty National. Attached as Exhibit E

is a chart, prepared at my direction and under my supervision, entitled Trade Practices Regarding Limits, Radiation Therapy and Chemotherapy Benefits. As discussed in the Exhibit, forms were sought from the Alabama Insurance Department of the companies which can reasonably be anticipated to be the largest writers of specified disease coverage. Of the two companies for which forms could be obtained, both contain limits. These two companies combined with Liberty National and affiliates account for 5 or half, (77.0% measured by 1988 earned premium) of the top 10 guaranteed renewable writers which presently utilize limits. One of these companies is the acknowledged leader in the field. Also studied were the forms of many of the companies who contributed to the 1985 NAIC Cancer Claim Cost Tables. Other policy forms were also reviewed. Of the 19 companies for which forms were reviewed, 15 utilize a limit or provide no benefit. Of the remaining 4, at least 2 are known to also offer policies with limits (which presents the possibility of treating the no limit policies as a separate premium rating class and protecting the policyholders who select the policies with limits from rate increases likely to follow on the no limit policies). As may be seen from Exhibit F, most of the policies which limit radiation and chemotherapy benefits provide arguably less coverage than the \$500 per treatment day provided by Liberty National. Otherwise stated, Liberty National benefits for radiation and chemotherapy appear comparable or superior to most of its competitors.

8. The "new" policies by utilizing limits, significantly lessen the possible need for rate increases. The concern over the need to increase premium rates due to

escalating medical costs, third party payment, and other factors cannot be over emphasized. With respect to possible financial stress on the companies, the report of the ACLI (American Council of Life Insurance Companies) Task Force on Solvency Concerns dated September, 1990 stated in the final report of its Task Force on Solvency Concerns "Accident and health was identified as a problematic line in 34 of the 41 (78%) companies" and further "underpricing of products was cited in 40 of the 68 (59%) companies examined. Most frequently the underpriced product was some form of accident and health insurance". It is likely that the underpricing result arose in no small part from previously sufficient prices not keeping pace with rapidly increasing costs. As further evidence of the difficulty of maintaining price adequacy in face of escalating cost, most companies have left the field (among them the giants such as Prudential, Metropolitan, John Hancock and others) of individual guaranteed renewable major medical insurance which is a line particularly subject to escalating cost aggravated by difficulty in obtaining needed rate increases. Business which financially stresses companies is detrimental to policyholders and companies alike. With respect to premium rates themselves, from the policyholder's point of view, particularly for a company of the nature of Liberty National and for a coverage such as specified disease, escalating premiums are neither desired by the carrier nor expected by the insured. The utilization of benefit limits is a generally recognized method, and very likely in the circumstances the best one, for addressing this problem.

9. Third party payment (of uncapped benefits) is a significant cause in the rapid rise of health care expense.

For example, the October 4, 1993 issue of the CATO Institute Briefing Papers states in the executive summary "The rise of third party payment has created an incentive structure that makes runaway spending inevitable" and it states further "before 1965, spending on health care was restrained by the fact that most payments were made out-of-pocket by patients". The July 26, 1993 Policy Briefing of the Progressive Policy Institute states "So long as conventional insurance and the current health care system let most Americans use medical services without paying directly for them - demand for health care will never be disciplined and prices will continue to rise".

It is my opinion that the "new" policies are better policies for the foregoing reasons, and they represented a responsible alternative offered by Liberty National to its policyholders.

- See attached Exhibits A - F which are hereby incorporated herein by reference.

/s/ W. H. Odell
W. H. Odell

Sworn to and subscribed before me on this the 27 day of October, 1993.

/s/ Martha F. Long
NOTARY PUBLIC

[SEAL]

STATE OF NORTH CAROLINA
COUNTY OF FORSYTH

My Commission Expires: May 13, 1997

[SEAL] OFFICIAL SEAL
Notary Public, North Carolina
COUNTY OF FORSYTH
MARTHA F. LONG

Exhibit A
of Affidavit
of W. H. Odell

W. H. ODELL

ADDRESS: Odell & Associates, Inc.
Suite A, American Building
1400 Old Mill Circle
Winston-Salem, North Carolina 27103

PHONE: (919)⁽¹⁾ 768-8217
FAX: (919)⁽¹⁾ 768-2185

EDUCATION: University of Pennsylvania
Wharton School of Finance and
Commerce
B. S. in Economics, 1954
Hopkins Grammar School, New Haven,
Connecticut
Graduated 1950

PROFESSIONAL DESIGNATIONS:

| | |
|------|--|
| 1981 | Associate, Casualty Actuarial Society |
| 1975 | Enrolled Actuary |
| 1975 | Fellow, Conference of Actuaries in Public Practice |

¹ (910) after November 14, 1993

| | |
|------|---------------------------------------|
| 1965 | Member, American Academy of Actuaries |
| 1958 | Fellow, Society of Actuaries |
| 1957 | Associate, Society of Actuaries |

PROFESSIONAL POSITIONS AND ACTIVITIES:

| | |
|---------|--|
| 1990- | American Academy of Actuaries - Health Practice Council |
| 1988- | ASB (Actuarial Standards Board) - Health Committee |
| 1988- | Conference of Actuaries in Public Practice - Committee on Health Issues, Chairman |
| 1986-88 | American Academy of Actuaries - Planning Committee, Chairman |
| 1985-88 | American Academy of Actuaries - Planning Committee |
| 1985-86 | Conference of Actuaries in Public Practice - Vice President |
| 1984-86 | Conference of Actuaries in Public Practice - Task Force on Continuing Professional Education, Chairman |
| 1983-93 | Standing Technical Advisory Committee to National Association of Insurance Commissioner's Life, Health and Accident Standing Technical Actuarial Task Force; Health Subcommittee, Chairman |
| 1982-88 | Conference of Actuaries in Public Practice - Board of Directors |
| 1981-83 | American Academy of Actuaries, Task Force on Actuary/Auditor Relations, Chairman |
| 1980-84 | American Academy of Actuaries - Committee on Relations with Accountants |
| 1980-83 | American Academy of Actuaries - Board of Directors |

- 1980-82 American Academy of Actuaries - Committee on Health Insurance, Chairman
- 1979-83 American Academy of Actuaries - Committee on Health Insurance
- 1979-80 American Academy of Actuaries - Subcommittee on Health and Welfare Plans
- 1974-79 American Academy of Actuaries - Committee on Financial Reporting Principles
- 1967-68 Society of Actuaries - Career Encouragement Committee, Chairman
- 1962-67 Society of Actuaries - Education and Examination Committee (Accounting and Valuation)
- 1961-68 Society of Actuaries - Career Encouragement Committee

Member of regional and local actuarial clubs; have served as editor, secretary/treasurer, vice president and president of regional actuarial club.

EMPLOYMENT:

- 1982- Odell & Associates, Inc.
Winston-Salem, North Carolina
Consulting Actuary
- 1972-82 Booke & Company
Winston-Salem, North Carolina
Senior Vice President

Manage Actuarial Consulting and Education Division.
- 1971-72 Capital Holding Corporation
Louisville, Kentucky
Vice President

Integrate and coordinate activities of corporate and subsidiary staffs to service the corporation and subsidiaries by determining liabilities, and making statistical

analyses and reports and providing other actuarial consulting services to subsidiaries.

- 1968-70 Commonwealth Life Insurance Company
Louisville, Kentucky

Integrate and coordinate the actuarial (and also beginning in 1970) financial control activities of the company and, based upon interpretation and analysis of information emanating from these departments advise and counsel top management on present and future state of the business.

- 1964-68 Life of Georgia
Atlanta, Georgia

Direct conversion to 1958 CSO, preparation of new merchandise and ratebook, annual statement preparation, development of Group Annuity Merchandise.

- 1954-64 Prudential Insurance Company of America
1959-64: Jacksonville, Florida

Assist in directing the underwriting and servicing of individual life, individual health, and small group.

- 1954-59: Newark, New Jersey

Management Development Program and Actuarial Development Program. Group insurance responsibilities,

development of premium billing and accounting system, development of individual health insurance asset share system.

PAPERS AND OTHER MATERIALS:

Transactions of the Society of Actuaries:

Vol. XXXI, 1979. Discussion, "The Individual Accident and Health Loss Ratio Dilemma", p. 390.

Vol. XXVII, 1975. Discussion, "Accounting for Purchase of a Life Company", p. 363.

Vol. XX, 1968. Discussion, "Adjusted Earnings", p. 477, p. 482.

Vol. XX, 1968. Discussion, "Actuarial Clubs", p. 771.

Vol. XIV, 1962. Discussion, "Individual Life Insurance", p. 222.

Record of the Society of Actuaries:

Vol. 1, Number 2. 1975. Panel Discussion, "Ordinary Pricing, Product, and Marketing Adaptations to an Inflationary Economy", p. 231.

Proceedings of the Conference of Actuaries in Public Practice:

Vol. XXV, 1975. Paper, "Establishing Reserve Systems for Use in Financial Statements Prepared in

Accordance with GAAP Reflecting Purchase Situations", p. 96.

Vol. XXV, 1975. Panel Discussion, "Purchase Accounting and GAAP", p. 95, p. 130 ff.

Vol. XXII, 1972. Workshop, "Adjusted Earnings", p. 312.

Proceedings of the Insurance Accounting and Statistical Association:

1974. "Federal Income Tax", p. 40.

OTHER PUBLICATIONS:

November, 1976. BEST'S INSURANCE REVIEW, Article, "The Quarterly Earnings Roller Coaster", p. 20.

June, 1975. THE ACTUARY, Book review of "Ernst & Ernst GAAP Accounting", by Robert Posnak, p. 1.

EXPERT TESTIMONY

Includes the following:

1. State of North Carolina on Relation of John Randolph Ingram, Commissioner of Insurance of North Carolina vs. All American Assurance Company - 75CVS8015 - Superior Court Mecklenburg County, North Carolina - on behalf of Plaintiff (North Carolina).

2. National States Insurance Company vs. Commissioner of Internal Revenue – Tax Court, St. Louis – Docket 17289-79 – on behalf of Plaintiff (National States).
3. Hearing before U. S. Senate Judiciary Committee's Anti Trust, Monopoly and Business Rights Subcommittee, June 16, 1980.
4. American Family Life Assurance Company vs. Joseph P. Teasdale, U. S. District Court Western Division, Case No. 81-0317-CV-W-5 1983 on behalf of Plaintiff (American Family).
5. Oxford Life Insurance Company vs. United States of America (IRS) – U. S. District Court for the District of Arizona – on behalf of Defendant (IRS).
6. Barnett Bank of Jacksonville vs. State Mutual Life Assurance Company of America – U. S. District Court Middle District of Florida Case No. 77-402-DIV-J-WC 1983 on behalf of Defendant (State Mutual).
7. State of North Carolina on relation of James E. Long, Commissioner of Insurance vs. 20th Century Life Insurance Company – State of North Carolina, Wake County General Court of Justice, Superior Court Division Case No. 90CVS 10926 on behalf of Plaintiff (North Carolina/James E. Long).

Exhibit C
of Affidavit
of W. H. Odell

SUPPLEMENTARY REFERENCES

The primary reference was the NAIC data, together with experience, judgment and information available in the normal course of our business. This was supplemented by the sources indicated below.

American Council of Life Insurance, *Report of the ACLI Task Force on Solvency Concerns*, September 1990.

A National Underwriter Publication, *Argus Health Chart 90th Annual Edition*, 1988.

National Center for Health Statistics, *Vital and Health Statistics, Detailed Diagnoses and Procedures, National Hospital Discharge Survey*, 1989, September 1991.

Health Care Financing Administration Office of Research and Demonstrations, *Total Family Expenditures for Health Care United States*, 1980, September 1987.

American Medical Association, *CPT, 1993 (Physicians' Current Procedural Terminology)*, October 1992.

American Medical Association, *CPT, 1993 (Physicians' Current Procedural Terminology)*, Radiology, 1992.

Official Medical Fee Schedule, *For Services Rendered Under The California Workers' Compensation Laws*, October 1987.

Commerce Clearing House, Inc., *Physicians' Medicare Fee Schedule*, January 1992.

Brink Lindsey, *Patient Power: The Cato Institute's Plan for Health Care Reform*, Cato Institute, October 4, 1993.

Progressive Policy Institute, *Policy Briefing: Health-Care Reform and the Laws of Economics*, July 26, 1993.

Exhibit D
of Affidavit
of W. H. Odell

INDEX NUMBERS (RELATIVITIES)

This reflects a means by which the aggregate benefits of each set of policies could be ranked in relation to the others using those issued on Form 579-11-75 as a standard. We utilized, as requested, a system of point values for this purpose.

This was requested for two time periods, 1986-1990, which we represented by July, 1988 and the "present" which is taken as July, 1993.

The following table presents index numbers or relativities indicating the relative value of the aggregate benefits of each set of policies. Form no. 579-11-75 is assigned an index of 1.000. The index number determined for each of the other Forms indicates the relative value of the benefits of policies issued on the specified Form to the aggregate benefits of those issued on Form 579-11-75.

For example, for July, 1988, the index number of 2.289 for Form 5GS Ed. 8-89 indicates the aggregate value of its benefits is 2.289 times that of Form 579-11-75.

| <u>Plan</u> | | <u>Index Number</u> | |
|--------------|-------|---------------------|------------|
| | | July, 1988 | July, 1993 |
| 579-11-75 | "old" | 1.000 | 1.000 |
| 7023 | "old" | 1.235 | 1.190 |
| 5GJ Ed. 8-86 | "new" | 1.828 | 1.503 |
| 5GS Ed. 9-89 | "new" | 2.289 | 1.854 |

Summary Indicators of Liberty National Life Insurance Company
Policy Forms - See policy forms for actual benefit provisions

| | 1 C 579-11-75 | 1A A 629-1-79 | 2 D 7023 | 3 B 5GJ ED 8-86 | 4 E 5GS ED 9-89 |
|------------------------------------|---|---------------------|--|--|-----------------------|
| 1. First Occurrence | -- | -- | -- | \$2,000 | \$2,250 |
| 2. Hospital | | | | | |
| Per Admission | \$100 | \$100 | | | |
| Per Day | \$30 | \$30 | \$60 | DYS: 1-90 \$100 >90 \$250 | \$150 \$400 |
| 3. Out Patient Surgery | -- | -- | -- | \$100 | \$150 |
| 3A. Ambulatory Service Center | -- | \$100/Dy | \$100/Dy | -- | -- |
| 4. Radiation and Chemotherapy | Charges including Chemotherapy Hosp or Doctor | +) | + New Language) | Chemo, Hosp, Other Admin by Doc. or Nurse \$500/Treatment Dy | +) |
| 5. Chemotherapy Prescription Drugs | † -- | † -- | † -- | \$8,000/Yr | \$10,000/Yr |
| 5A. Drugs | U & C Prescribed Drugs Excl Admin in Hosp | + -- | -- Prescribed Drugs Excl Admin in Hosp | -- | -- |

• Above simplified and summarized for presentation.

• Amounts shown are maximum payments except First Occurrence is an indemnity amount.

Summary Indicators of Liberty National Life Insurance Company
Policy Forms - See policy forms for actual benefit provisions

| | 1 C <u>579-11-75</u> | 1A A <u>629-1-79</u> | 2 D <u>7023</u> | 3 B <u>5GJ ED 8-86</u> | 4 E <u>5GS ED 9-89</u> |
|-------------------------|----------------------------|----------------------------|-----------------------|------------------------------|------------------------------|
| 6. Experimental | -- | -- | -- | -- | Recognized |
| 7. Blood Transfusion | U & C | + | U & C | + \$500 Each | + \$750 Each |
| 8. Transportation | U & C 6 in 12 months | + | + | +Expanded 15¢ | + |
| 9. Surgery | \$400 Schedule | + | \$800 Schedule | \$1,000 Schedule | \$2,000 Schedule |
| 10. Anesthesia | \$75/Operation | + | \$100/Procedure | 25% Surgery | + |
| 11. Attending Physician | \$10/Dy Excl Surg RAD | + | \$15/Dy | \$25/Dy | \$35/Dy |
| 12. Private Nurse | \$25/Dy | + | \$30/Dy | \$50/Dy | \$75/Dy |
| 13. Prosthesis | -- | -- | -- | 2 Lifetime \$500 Each | 2 Lifetime \$750 Each |
| 14. Hospice | -- | -- | -- | \$50/Dy of Service | \$75/Dy of Service |
| 15. Income Replacement | -- | -- | -- | | 14 Dy, \$100/Wk, 26 Wks + |
| 16. Dread Disease | -- | -- | -- | | R&B Only + |

Exhibit F
of Affidavit
of W. H. Odell

TRADE PRACTICES REGARDING LIMITS
RADIATION THERAPY & CHEMOTHERAPY LIMIT

This Exhibit presents information about benefit limits in the policies of some of Liberty National's competitors.

To provide an objective sample of this information, a review was made of the filings with the Alabama Department of Insurance on companies selected based upon the criteria of likelihood of being a significant presence in the specified disease policy market. These companies were defined as those companies listed by Argus Health Charts as being the largest writers of guaranteed renewable health insurance. Although other health insurance coverages besides specified disease are written on the guaranteed renewable basis, a very significant portion of the guaranteed renewable business is specified disease. Inquiry was made of the Alabama filings of these companies commencing with the largest writer of guaranteed renewable business and proceeding down the list, omitting affiliates of Liberty National.

The following table lists in the first column the 10 largest writers of guaranteed renewal (excluding Liberty National and its affiliates) according to Argus Health Charts and the second column indicates by "yes" whether there are any policy forms available on file. For both top ten companies for which filings were available, all Alabama specified disease filings of the last two years were selected for study. (Two years is the Alabama Department

of Insurance's retention period for policy filings' correspondence.)

| <u>Company</u> | <u>Forms Available</u> |
|--------------------------------|------------------------|
| 1. American Family Life ASR GA | Yes |
| 2. Bankers LNC, IL | No |
| 3. Physicians Mutual | Yes |
| 4. Colonial L&A | No |
| 5. Combined Ins of America | No |
| 6. Mutual of Omaha | No |
| 7. American Republic | No |

United American and Globe L&A Ins rank second and ninth respectively but are omitted because they are affiliates and Liberty National which ranks seventh. The above listing, therefore, together with Liberty National and its affiliates, account for the ten largest writers of guaranteed renewable health coverage in the nation.

In addition to the forms selected by the above procedure, other forms which were available from the Alabama Department of Insurance and from other sources were reviewed. Some of these forms were issued by the above companies.

TRADE PRACTICES REGARDING LIMITS
RADIATION THERAPY & CHEMOTHERAPY LIMIT

| <u>Company</u> | <u>Form</u> | <u>Radiation Therapy and Chemotherapy Benefit Limit</u> |
|--|------------------|---|
| American Family, GA | A-4474 | \$1,000 lifetime |
| American Family, GA ⁽²⁾ | A-9056 | \$2,500 lifetime |
| American Family, GA ⁽¹⁾ | A-51000 to 55000 | \$100 to \$250 per treatment day |
| American Fidelity, OK | C-5 | No Limit |
| American Heritage, FL ⁽¹⁾ | CP6 & CP9 | No Limit |
| American Heritage, FL ⁽¹⁾ | CP10 | \$5,000 to \$10,000 per year |
| American Heritage, FL ⁽¹⁾ | CP11 | \$5,000 per year |
| Bankers Life & Casualty, IL ⁽²⁾ | GR-754 | \$1,000 lifetime (\$100/treatment) |
| Bankers Life & Casualty, IL ⁽²⁾ | GR-77B | \$5,000 for all care |

| Company | Form | Radiation Therapy and Chemotherapy Benefit Limit |
|-------------------------------------|------------|--|
| Bankers United, IA | CZ 1 877 | \$2,000 lifetime |
| Bankers United, IA | CC 41 1284 | \$3,000 per year |
| Bankers United, IA | C5 1 985 | No Limit |
| Bankers United, IA ⁽¹⁾ | BPC 400 | No Limit |
| Bankers United, IA ⁽¹⁾ | BPC 510 | No Limit |
| Capitol American, AZ | SD-82 | \$1,250 per year |
| Capitol American, AZ | ZQ000 | \$3,750 per calendar year |
| Capitol American, AZ ⁽¹⁾ | CG--- | to No Limit |
| Capitol American, AZ ⁽¹⁾ | CH--- | \$75 to \$250/treatment day |
| Certified Life, CA ⁽²⁾ | CER-77D | \$100 to \$300/treatment day |
| Colonial Life, SC ⁽²⁾ | NCBA-NC | \$10,000 for all care |
| | | \$150 per outpatient treatment day |
| Kanawha, SC | 70220 5/89 | \$150 per treatment day |
| Life Investors, IA | CC 2 279 | \$2,500 lifetime |

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| Company | Form | Radiation Therapy and Chemotherapy Benefit Limit |
|--|------------------------|--|
| Lone Star, TX ⁽²⁾ | GR3-056 (71) | \$1,000 lifetime |
| Lone Star, TX ⁽²⁾ | SPC GR 100-CAL (73) | \$1,500 lifetime |
| Mutual of Omaha, NE ⁽²⁾ | 50CL/CLF | All care subject to maximum ⁽³⁾ |
| Mutual of Omaha, NE ⁽²⁾ | 70CL/CLF | No Benefit |
| Mutual of Omaha, NE ⁽²⁾ | 80CL/CLF | \$2,000 lifetime |
| National Foundation, TX ⁽²⁾ | CP 1904 | \$1,500 |
| National Foundation, TX ⁽²⁾ | 1911 (7/77) | No Benefit |
| Pacific Fidelity, CA | SD 1 581 | \$3,000 per policy year |
| Physicians Mutual, NE ⁽¹⁾ | P180 | \$1,500 to \$6,000 lifetime |
| Security First, AL | CPP-150R70 | \$1,000 lifetime |
| Standard Life, OK ⁽¹⁾ | 1264-693 | \$2,400 to \$4,800 per calendar year |
| Union Fidelity, PA ⁽²⁾ | 1-2140-04 | \$1,500 lifetime |

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| Company | Form | Radiation Therapy and Chemotherapy Benefit Limit |
|---------------------|--|--|
| Liberty National | 579--11-75 | No Limit |
| Liberty National | 7023 | No Limit |
| Liberty National | 5GJ Ed. 8-86 | \$500/treatment day |
| Liberty National | 5GS Ed. 9-89 | \$500/treatment day |
| Summary Data: | | |
| | <u># Companies</u> | |
| Limit or No Benefit | 15 | |
| No Limit | 2 (American Fidelity & Bankers United) | |
| Both | 2 (American Heritage & Capitol American) | |
| Total | <u>19</u> | |

Both of the two top ten companies in the sample for which forms could be obtained, offered only limited coverages. One of these, American Family, is the acknowledged pioneer and leader in the field. Together with Liberty National and affiliates, this accounts for 5 or half (77.0% of the 1988 earned premium,) of the top 10 guaranteed renewable writers companies as presently utilizing limits.

- (1) Form obtained from Alabama Department of Insurance.
- (2) This company contributed to the experience study which is the basis for the 1985 NAIC *Cancer Claim Cost Table* and it is believed that this form was the basis for part of the experience contributed by that company.
- (3) All benefits combined subject to selected maximum during a 5 year benefit period (maxima offered not included in information available).

IN THE CIRCUIT COURT OF
BARBOUR COUNTY, ALABAMA
CLAYTON DIVISION

| | | |
|-------------------------------|---|------------------|
| CHARLIE FRANK ROBERTSON, |) | |
| individually and on behalf of |) | |
| a class, |) | |
| |) | |
| Plaintiffs, |) | Civil Action No. |
| |) | 92-021 |
| v. |) | |
| |) | |
| LIBERTY NATIONAL LIFE |) | |
| INSURANCE COMPANY, |) | |
| |) | |
| Defendant. |) | |
| | | |
| STATE OF GEORGIA |) | |
| FULTON COUNTY |) | |

AFFIDAVIT OF ROBERT H. DOBSON

Before me, the undersigned Notary Public in and for said county in said state, personally appeared Robert H. Dobson, who being known to me and having been by me first duly sworn under oath, deposes and says as follows:

1. My name is Robert H. Dobson. I have personal knowledge of the matters set forth in this affidavit based upon my education, my experience as an actuary, my experience in the insurance business, and based upon materials I have reviewed and work I have performed relating to cancer policies of Liberty National Life Insurance Company ("Liberty National"). My education, professional experience and qualifications as an actuary include the following:

a. I am employed as a consulting actuary with the firm Milliman & Robertson, Inc. in its office in Atlanta, Georgia. Milliman & Robertson, Inc. is a national firm specializing in the field of actuarial consulting in the insurance industry, with international affiliations through Woodrow Milliman. Our clients include both governmental agencies and private entities in the United States and other countries.

b. I graduated from the Massachusetts Institute of Technology in 1969 with a Bachelor of Science degree in economics. After graduation I worked in the actuarial field for insurance companies until 1973 when I formed an actuarial consulting firm, which later merged with Milliman & Robertson, Inc. I worked as a consultant from 1973 until 1981, during which time I became more specialized in the medical and health insurance area, and by the end of that period I was concentrating almost completely in the field of medical and health insurance. During that period of time our clients included Blue Cross and Blue Shield plans in different states, the Alabama Department of Insurance, Florida Farm Bureau Life and other private and governmental entities in the insurance field.

c. In 1981, I joined Blue Cross and Blue Shield of Alabama as its Chief Financial Officer. I had several departments reporting to me, including actuarial, underwriting, accounting, corporate planning and provider reimbursement; toward the end of my time at Blue Cross and Blue Shield of Alabama I was also in charge of the Plan's health maintenance organization. I served as Chief Financial Officer of Blue Cross-Blue Shield of Alabama until 1984 when I returned to the consulting field with

the firm of Tillinghast, where I later became a principal. Tillinghast merged with Towers Perrin in 1986 and I was promoted to Vice President. In 1992, I rejoined the consulting firm of Milliman & Robertson, Inc. in their Atlanta office.

d. I have had experience in all aspects of risk analysis in the financing and delivery of health care, and I have been retained as a consultant for insurance companies, Blue Cross and Blue Shield plans, health maintenance organizations, preferred provider organizations, health care providers, state insurance departments, major employers, various associations and agencies of the federal government. I am a Fellow of the Society of Actuaries, a Fellow of the Conference of Consulting Actuaries and a member of the American Academy of Actuaries. I have chaired and served on various professional committees responsible for health insurance and other insurance matters, including serving as President of the Conference of Consulting Actuaries and Vice President of the American Academy of Actuaries.

e. I have been retained as an expert in connection with litigation and administrative proceedings by various private and governmental entities, including the Alabama Department of Insurance, the Vermont Department of Insurance, the Maryland Attorney General, the Ohio Insurance Department, the Florida Department of Insurance, the New Hampshire Department of Insurance, Blue Cross of Maryland and others. On two different occasions I have testified before congressional committees of the United States Congress, once regarding proposed changes to Medicare and once regarding long term care coverage.

f. I reside in Atlanta, Georgia, and my business address is Milliman & Robertson, Inc., Atlanta Financial Center, 3343 Peachtree Road, N.E., Suite 1250, Atlanta, Georgia 30326-1052.

2. I was retained as a consultant by counsel for Liberty National to review certain Liberty National cancer insurance policies issued on and after August 1986 (the "new policies") and compare those cancer policies with Liberty National cancer policies issued prior to August 1986 (the "old policies"). I was asked to determine the relative value of the benefits under the old policies and under different forms of the new policies. By applying basic actuarial applications and utilizing sources of data which were appropriate in ascertaining the relative values of the benefits, I determined the relative value of benefits under the old policies and the new policies at different points in time. In my opinion the new policies provide benefits which are greater in actuarial value than the old policies. That is, for a given population of people with average risk characteristics, analyzed at the different points of time I considered, such population would be expected to receive greater total benefits under the new policies than the under the old policies, and, at the time of purchase, the average member of such population would expect to receive more total dollars in benefits under the new policy than he would under the old policy if that member suffered cancer.

3. Specifically, I reviewed two old policies designated as 579 and 7023 and two new policies designated as 5GJ and 5GS, copies of which are attached hereto as Exhibits A, B, C and D respectively. I compared these four policies at two points in time, July 1, 1988 and July 1,

1993, and I used the old policy designated 579 as the base. By applying my training, experience and basic actuarial applications, and utilizing appropriate data for this analysis, I arrived at the relative value of each of the benefits which were provided in each of these policy forms. By performing various calculations and computations which were appropriate for this analysis, and which are accepted practice in the actuarial field, I determined the relative values of the overall benefits of each of these four policies, using the value of 1,000 as the base value for policy 579. A summary of the results of this comparison is as follows:

| | <u>7/1/88</u> | <u>7/1/93</u> |
|------|---------------|---------------|
| 579 | 1,000 | 1,000 |
| 7023 | 1,140 | 1,080 |
| 5GJ | 1,530 | 1,150 |
| 5GS | 1,860 | 1,340 |

As can be seen from this summary, I determined, for example, as of July 1, 1988, new policy 5GS had a relative value of 1,860 as compared to the value of 1,000 for old policy 579. In other words, I determined that as of July 1, 1988, new policy 5GS had a relative value of benefits which was 1.86 times greater than the value of benefits under the old policy 579. The other comparisons can be seen in the summary chart above.

4. Subsequent to being asked to review the four policies discussed above, I was retained to review one old policy form designated as 564 and two new policy forms designated as 5GL and 5GR to determine relative values

of benefits for a female who was age 55 on 7/1/87. I made this comparison for three different points in time, 7/1/87, 7/1/91 and 7/1/92. Applying my training, experience and basic actuarial applications, and utilizing appropriate data for this analysis, I arrived at a relative value of each of the individual benefits which were provided in each of these policy forms. Through various calculations and computations which are appropriate to the comparison of the policies, and which are accepted practice in the actuarial field, I arrived at relative numbers or values for these benefits and then arrived at a relative value for the overall benefits of each of the three policies. I performed this analysis at each of the three points in time. The policies used in this analysis were Liberty National form 564 (one of the old policies), Liberty National form 5GL and form 5GR (two of the new policies). Copies of policy forms 564, 5GL and 5GR are attached hereto as Exhibits E, F and G. Attached hereto as Exhibit H is an exhibit which summarizes the results of my analyses and comparison of benefits. As is shown in Exhibit H, I determined, for example, that by assigning a relative value of 1.00 to the benefits provided under old policy form 564, as of 7/1/87 the new policy form 5GL would have a relative value of benefits of 1.47. Simply stated as of 7/1/87, new policy form 5GL, for example, had a relative value of benefits 1.47 times greater than the benefits in old policy form 564. The other ratios of relative values of the different forms at the three different points in time are also reflected in Exhibit H.

5. In performing my analyses of the various policy forms discussed in the preceding paragraphs, I relied in part upon the 1985 NAIC cancer study, which is an

authoritative study sponsored by the National Association of Insurance Commissioners. I also relied in part upon other sources of reliable data, including data known as the Nelson & Warren Tables and also certain reliable internal data of Milliman & Robertson which we regularly utilize in performing actuarial consulting work in the field of health insurance.

6. The new policies provide certain significant benefits which were not provided at all under the old policies, and the new policies provide for increased benefits in certain areas which were also covered under the old policies but with lesser benefits. As indicated by my findings as to the relative values of the benefits under the old policies versus the new policies, in my opinion the new benefits and the increased benefits under the new policies more than offset the limitations placed on radiation and chemotherapy and the lack of coverage for non-cancer fighting prescription drugs in the new policies, resulting in my conclusion that the new policies provide greater overall benefits and coverage. In my opinion, a given population of policyholders (and, at the time of purchase, each member thereof) can expect to receive greater overall benefits under the new policy forms than under the old policy, and the average person who suffers cancer after purchasing a new policy will receive more total dollars in benefits under the new policy than would have been received under the old policy for the same treatment.

7. The methodologies I have employed are generally accepted in the actuarial field and are appropriate for the analysis I performed. In my professional judgment it would not have been actuarially sound to use Liberty

National claims data from the old policies and compute the average amount of claims paid per policy and then compare those amounts to the average amount of claims paid per policy under the "new policies" to determine which was the better policy, for the following two reasons: (1) the two groups of policyholders do not represent homogeneous populations; and (2) risk is involved, which means that actual experience for any given time period will differ from expected, especially given the low frequency of cancer claims. For example, in a given population of 100 policyholders, it is highly likely that the number of internal cancers will be either 0, 1 or 2. If one policy form provides a flat benefit of \$1,000 and a second provides a flat benefit of \$1,500, it is clear that the latter form is more valuable to any individual policyholder. However, it could easily happen that the first group had 2 cancers occur in a given year for a total payout of \$2,000. If the latter group had 0 or 1 cancers for a payout of 0 or \$1,500, the fallacious reasoning referenced above would lead to the erroneous conclusion that the first policy was better. This conclusion is not actuarially sound.

In my opinion, it was more appropriate to rely on independent sources such as the NAIC Tables and our own internal data and professional judgment. In addition, the new group of policyholders had been underwritten, and Liberty National prohibited anyone in the old group who had cancer or who had ever had cancer from exchanging to a new policy.

8. Further deponent sayeth not.

/s/ Robert H. Dobson
Robert H. Dobson

Sworn to and subscribe before me on this the 28th
day of October, 1993.

KIMBERLY H. SCHRINER
Notary Public, Fulton County,
Georgia
My Commission Expires April 2,
1996

Notary Public

Liberty National Life
Evaluation of Cancer Policies For Female Age 55 on 7/1/87
Done For Relativities, Not Absolute Values

| | <u>As of 7/1/87</u> | | <u>As of 7/1/91</u> | | <u>As of 7/1/92</u> | |
|--------------------------|---------------------|--------------|---------------------|---------------|---------------------|---------------|
| | <u>564</u> | <u>5GL</u> | <u>5GL</u> | <u>5GR</u> | <u>564</u> | <u>5GR</u> |
| First Occurance Benefit | 0.00 | 15.60 | 18.88 | 21.24 | 0.00 | 22.26 |
| Hospital Per Day | 14.13 | 25.49 | 25.13 | 38.02 | 13.81 | 37.69 |
| Surgery | 4.43 | 4.43 | 5.40 | 8.64 | 5.67 | 9.07 |
| Anesthesia | 0.66 | 1.11 | 1.35 | 2.16 | 0.81 | 2.27 |
| Prescription Drugs | 3.69 | 0.00 | 0.00 | 0.00 | 4.78 | 0.00 |
| Radiology & Chemotherapy | 38.11 | 33.53 | 54.35 | 54.35 | 80.36 | 61.57 |
| Attending Physician | 1.65 | 2.74 | 3.44 | 4.82 | 2.17 | 5.06 |
| Blood | 0.94 | 0.94 | 1.24 | 1.24 | 1.31 | 1.31 |
| Private Duty Nursing | 0.08 | 0.14 | 0.18 | 0.27 | 0.11 | 0.28 |
| Transportation | 0.13 | 0.13 | 0.19 | 0.19 | 0.21 | 0.21 |
| Outpatient Surgery | 0.42 | 0.42 | 0.70 | 1.05 | 1.15 | 1.73 |
| Prostheses | 0.00 | 0.95 | 1.13 | 1.69 | 0.00 | 1.69 |
| Hospice | 0.00 | 1.07 | 1.30 | 1.95 | 0.00 | 2.04 |
| Income Replacement | 0.00 | 5.29 | 7.32 | 7.32 | 0.00 | 7.84 |
| Dread Disease | 0.00 | 2.55 | 2.51 | 3.80 | 0.00 | 3.77 |
| Experimental | 0.00 | 0.00 | 0.00 | 1.18 | 0.00 | 1.27 |
| Total | 64.24 | 94.39 | 123.12 | 147.92 | 110.38 | 158.06 |
| Ratio | 1.00 | 1.47 | 1.00 | 1.20 | 1.00 | 1.43 |

02:18 PM 10/28/93

Liberty National Life
Evaluation of Cancer Policies For Female Age 55 on 7/1/87
Done For Relativities, Not Absolute Values

| | <u>As of 7/1/87</u> | | <u>As of 7/1/91</u> | | <u>As of 7/1/92</u> | |
|--------------------------|---------------------|--------------|---------------------|---------------|---------------------|---------------|
| | <u>564</u> | <u>5GL</u> | <u>5GL</u> | <u>5GR</u> | <u>564</u> | <u>5GR</u> |
| First Occurance Benefit | 0.00 | 15.60 | 18.88 | 21.24 | 0.00 | 22.26 |
| Hospital Per Day | 14.13 | 25.49 | 25.13 | 38.02 | 13.81 | 37.69 |
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| Income Replacement | 0.00 | 5.29 | 7.32 | 7.32 | 0.00 | 7.84 |
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| Ratio | 1.00 | 1.47 | 1.00 | 1.20 | 1.00 | 1.43 |

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* * *

[p. 234] THE COURT: Whichever way you want to do it.

MR. ROEDDER: We will do it back to back.

(THEREUPON, a short discussion was held off the record.)

CHAMP LYONS, JR.

the witness herein, after first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BEASLEY:

Q State your name, please.

A Champ Lyons, Jr.

Q Mr. Lyons, who do you practice law with?

A Give me a second to get this mike where it is more comfortable. Helmsing, Lyons, Sims, & Leach in Mobile.

Q For how many years have you practiced?

A I graduated from law school in '65, and clerked for Judge Dan Thomas for two years and I have been in private practice since.

Q Okay. You have actually lectured and written and authored various things, legal publications and things of this sort? Am I correct?

A That's correct.

Q How many separate policyholders are there that you believe them to be members of the class that have been [p. 235] defined by the court?

A I think the number is 220,000 or 270,000, I'm not sure.

Q How many are represented by attorneys other than class counsel to your knowledge?

A I'm not the best person to ask that. I'm really not sure.

Q Who would be the best person to ask that?

A I think we could probably get information from the counsel table or stipulation basis or something like that.

Q If we could do that. I may want to ask somebody that particular question. How many policyholders does your firm represent?

WITNESS: Larry, how many do we represent?

MR. SIMS: I think we represent approximately two hundred.

Q Two hundred? What is the nature of claims that two hundred persons have, just the general nature?

A Well, as far as I understand it is cancer and noncancer cases.

Q Fraud type cases, though?

A Right.

Q Do you intend at this point - assuming the court didn't approve this settlement and allowed for [p. 236] persons to file individual lawsuits, would you seek both compensatory damages and punitive damages for each of those 250 people?

A Assuming that this matter can't be resolved on some basis where we find the quid pro quo for our right to opt out then we would go back in our trial courts seeking jury trials.

Q The question I'm asking would you, though - would you seek both compensatory damages and punitive damages for each of the policyholders that you represent in your firm?

A Yes, sir.

Q Do you see any problem with that as far as the punitive aspect of it would be concerned as a legal scholar and an attorney who is widely experienced in litigation practice?

A I think what you are asking me is to address this concept of the greater good that my friend Richard Gill referred to.

Q Not really. The question I'm asking you, do you see any problem in having two hundred separate clients all seeking punitive damages against a company that has a net worth of \$327 million?

A It would be a matter that we would work out with our clients.

[p. 237] Q You would work it out with each individual client?

A Yes.

Q Have you advised each of the clients that would be a potential conflict in representing 200 clients?

A My role in this has not been involved in dealing with the clients directly.

Q Assume your firm has dealt with them.

A I assume they have.

Q I would just like for you to tell the court what you told the clients.

A I can't tell you that because I haven't dealt with the clients.

Q Who would have that information?

A Other members of the firm who have.

Q Mr. Sims?

A Yes, sir.

Q I'm asking you now do you see a problem with that?

A I already told you it would be something that would have to be worked out.

Q Well, for example, would you tell the client that, "One of you may get \$10 million, one of you may get nothing; that at some point the Supreme Court may say that Liberty National has been punished enough and we will have [p. 238] to stop this and there will be no other punitive damages allocated to any other respective client"?

A That is one thing you could tell them.

Q Would you tell them also if you have, say, three or four multiple million dollar verdicts that Liberty National could wind up in receivership?

A That is also possible. That is something one could tell them.

Q That would be something also that the class counsel would have to look at too in representing a class; is that correct?

A That is a factor.

Q Would it not make injunctive relief perhaps more acceptable to members of the class?

A Well, you and I have a conceptual difficulty with the ability of the litigant to characterize this as injunctive relief and thereby escape the right to trial by jury that is available to an Alabama citizen.

Q Well, let ask you this: What assets are available to take a judgment against Liberty National other than what is shown on their financial statement?

A Well, I haven't had any discovery to speak of. All we have is statements to net worth, but they do have some insurance coverage which is in litigation.

Q In fact, that is \$10 million, am I correct?

[p. 239] A I don't know. I haven't seen that.

Q You haven't seen the declaration page in that policy that has been introduced in a lawsuit in Mobile?

A I didn't try the lawsuit in Mobile.

Q No, I'm talking about the lawsuit that was filed by the insurance carrier.

A No, I'm not involved in that litigation either.

Q Okay. Now, what profits do you believe Liberty National made because of the problem, and I'll concede this question to you that I think the fraud in this case is monumental.

A Well, without discovery I can't answer that.

Q Well, in this case, the judge asked Mr. Gill the question I'm going to ask you. First of all, do you say that the \$3 million separate pot is inadequate for punitive damages if that was the nature of it?

A Well, I'm glad you put if that was the nature because there is nothing in the settlement document that I have seen that characterizes that as punitive damage fund.

Q Assuming that were the amount of money that was in addition to the injunctive relief and the relief that you can't just put a particular dollar figure on, what amount - I will just ask you is that amount adequate to fit what you read in the settlement agreement and also in the notice that will go to the people who will be covered [p. 240] by that class? Is it adequate or inadequate?

A I would answer it this way: I would think after discovery if one had a pretty firm grasp as to the profit level, that has been obtained by Liberty National from this, which you call monumental fraud, that that class would be reduced by a third for the hazard of litigation, and that would be the punitive damage award.

Q Assume for the purpose of this question that the property is worth \$30 million from this fraud, that the net worth of the company is in fact \$327 million, and add another \$10 million for insurance coverage, and assume that the fraud is the worst you ever saw as a practicing attorney, then do you think \$3 million adequate or inadequate?

MR. GEWIN: I just have to object to the form, assuming it is the worst fraud he ever saw.

MR. BEASLEY: I'll strike that part of the question and leave everything else intact. Let's say that the fraud is bad.

MR. GEWIN: Same objection. I know this is not a trial, Judge, but you know my position. This is a -

MR. BEASLEY: (Interposing) I'll strike that and I'll just say fraud is involved.

A Let me make sure I understand your question. [p. 241] Assume \$30 million profits -

Q (Interposing) From the fraud -

A - from the fraud.

Q - assuming that fraud did occur.

A And assuming another \$10 million in insurance -

Q (Interposing) That's correct.

A - and the question to me is if an allocation of \$3 million punitive damage award in this settlement was fair.

THE COURT: Why don't you go ahead and put the other factors - what the total settlement -

MR. BEASLEY: (Interposing) The total value of settlement of \$39.4 million, assuming that is correct.

A Well, I have some problems with that, but I still think it is unfair. Compensatory damages may be one thing and then punitive damages is another, and I think that you ought to be able to recover a punitive damage award over and above what it would take to make the individual class members whole.

Q I told you that. The question I'm asking you is do you think that the \$3 million is not enough?

A No, I said no, it is not enough.

Q So, I'll ask the question that the judge asked [p. 242] Mr. Gill: What amount do you believe that the Alabama Supreme Court would say is fair enough to punish them, assuming the fraud, conceding that the question is correct, just simply for the hypothetical?

MR. GEWIN: May we have the understanding that that question includes the total settlement package?

MR. BEASLEY: Yes.

Q What would it take in your opinion for the Alabama Supreme Court to say, "This is enough, you have been punished enough, and nobody else will get any further damages of a punitive nature"?

A Well, that is a hard question to answer, but I'll stick to what I said earlier, you take two-thirds of the profits, under your hypothetical, and they have got \$10 million in insurance, \$25 or \$30 million.

Q So \$10 million you are saying is not punishment because the insurance would take care of that?

A Yes.

Q An additional two-thirds of the profits would be -?

A Twenty more million under that hypothetical.

Q That is the question I wanted you to answer.

Now, if I understand correctly, one case in Mobile was tried before a jury, and that person, as I understand it, did not have a cancer claim; am I correct?

[p. 243] A That is my understanding.

Q And tell the court what the award was in that case.

A It was my understanding that person also had other cancer coverage so there was no mental anguish claim, and I think the actual damages in that setting a thousand dollars.

Q And the punitive?

A Was a million.

Q Do you believe if each case went to trial and assuming that the plaintiff won the case, do you believe that each member of this class would recover and receive one million dollars?

A No, because we would have a Green Oil curtain drop before that happened.

Q Explain to me, the court already knows, what the Green Oil curtain drop is.

A Well, I won't accept your statement you don't know what Green Oil is.

THE COURT: I won't either, not as many hearings as I've had with him before.

A The Alabama Supreme Court has created a post verdict review procedure whereby jury verdicts are tested for excessiveness in the context of the punitive damages on a variety of factors which I can't tick off right now, but [p. 244] essentially there is a provision in there for review of punishment in other cases so you can avoid the Constitutional challenge to multiple punishments for a single wrong beyond the degree of the enormity of the wrong.

Q Have you ever taken the position in a legal brief that a certain number of dollars punitive damages would be excessive?

A Yes.

Q In fact, you have taken the position of much less than \$3 million in a fraud case?

A Well, I have been involved in several. If you want to refresh me which one -

Q (Interposing) I can't remember the name, I read so many of them, would I be accurate if I characterized it many times you have taken that position haven't you?

A In a setting where you got a single fraud before the court, and this is a single wrong, and I'm not purporting to deal with a bigger picture, yes, but I have on occasions.

Q Now, have you ever taken the position before that a certain amount was not enough punitive damages ever in your legal career?

A No, I haven't.

[p. 245] Q How many times has your law firm represented a plaintiff in a fraud case against an insurance company?

A Outside the two hundred cases against Liberty National?

Q Well, I assume that those are in abeyance at this point awaiting the outcome of this. I'm talking about where you actually included -?

A I am sure on several occasions, I just can't recall.

Q Can you name one? I'll make it easy. Can you name one that you handled personally?

A Fraud case against an insurance company?

Q For the plaintiffs.

A For the plaintiff? No.

Q Now, am I correct that - well, let me ask you this: In the Mobile setting, again in a separate situation with a separate judge, am I correct that another judge on similar facts granted summary judgment for Liberty National against six individual policyholders, that those cases are gone unless it is reversed?

A I don't know how you can same similar fashion. I don't know there was a claim for mental anguish damages in those cases.

Q Do you know what the basis of the summary judgment ruling was?

[p. 246] A Yes, I do.

Q Tell the court.

A It is my understanding that Judge McRae felt a person who had not yet filed a claim did not have actual damages because it would be speculative, and I think that is quoted in one of the briefs. I think he has misread the rule that says where damages are difficult to prove that the defendant shouldn't get off scott-free, and made an application of the rule of speculative damages in that setting; therefore, I think that judgment should be reversed.

Q All right. Champ, do you see in this case, assuming that we had maybe five multimillion dollar awards against Liberty National on the cancer policies, would receivership be a possibility?

A Well, you can have it with one multimillion dollar award. I don't know. That is a very open question.

Q Let's assume there are five cases that are tried out of class numbers that escaped this class, and go the individual route and file suit, and assume that the person gets five million and the next one gets one million and the next one gets three million and the next one four million, and the next one one, do you believe that would be enough for the Alabama Insurance Department to place this company in receivership?

[p. 247] A I'm not an expert on insurance laws.

Q Have you considered that possibility in dealing with two hundred clients?

A I have considered it a possibility. You have asked me where the threshold is. I can't tell you that.

Q Do you not have, based on what the Alabama Supreme Court has done in recent fraud cases, you don't have a general idea as to what their opinions are on the aggregate amount of money required to punish an individual?

A That is a different question. I thought you asked me about the amount of money necessary to put it in receivership.

Q Do you think one would be lesser or larger than the amount to put a company in receivership as opposed to what the Supreme Court would find -

A (Interposing) Well it depends on the size of the company.

Q Excuse me, the accumulative aggregate had reached the magic "punishment level". A company of this size.

A I told you, I don't know what the Alabama Department of Insurance looks at when they decide whether or not a receivership is appropriate.

Q Have you considered that as a possibility in dealing with these clients?

[p. 248] A Oh, yeah.

Q Have you advised them of that?

A I have not given any advice to these clients. I told you that.

Q To your knowledge has Mr. Sims or anyone in your firm advised there is a possibility of someone else

putting the company in receivership before they ever got to bat?

A I have no knowledge one way or the other about that.

Q You mentioned awhile ago that you disagreed with the amounts that Mr. Moyse had allocated to the settlement package. Has your firm made a similar evaluation either by actuary or somebody else?

A I haven't dealt with the actuary.

Q I'm asking what your firm has done.

A I don't know.

Q In dealing with all the other objectors' lawyers has anyone told you -

A (Interposing) I have not.

Q - what the value of the package is?

A I have not involved myself with that. I mean, I thought you wanted an expert to come up here from the lawyer's side and just talk about why we thought the punitive damages pot was inadequate and what could be done [p. 249] to resolve that.

Q I'm talking about the fairness of the settlement. All of it goes to the fairness of it.

What I want you to tell me, and especially the court, not me, if you think it is unfair, I want you to tell the court why.

A Well, let me just check off things, and don't ask me to tie it to the actuary.

Q No, just your position.

A If somebody has not had cancer, as I understand the settlement, they will then be given the privilege of doing business with a company that defrauded them in taking continuing future premiums, and little else. Now, you might say there is an injunction against future wrongdoing. I'm not aware that is a valid basis for injunctive relief, that you can get an injunction against future tort. I thought the criminal code of the United States and the State of Alabama stood as everybody's injunction against future wrong. So, I don't assign any value to that.

For somebody who has had cancer, they get a chance to make a claim against a fund, and I don't know if that will come up with ten, twenty, or thirty thousand dollars apiece, but in terms of comparing that with a right to go to a trial before a jury and get what you could, I think that is inadequate. I understand that the scope of [p. 250] the settlement deals with a variety of claims, many of which the class plaintiff does not have the typicality to represent. It also would include a release of Torchmark which isn't even a party to the case, and for those reasons I have got problems with the settlement.

Q Anything else?

A And we have already addressed the inadequacy of the punitive damage award.

Q Anything else?

A That is all I can think of right now.

Q If the Court asked you this question, what would it take to make it a settlement package that you and the

lawyers for the objectors, these two hundred people that you represent, what would it take to make it an acceptable package?

A If I was the judge, what would I do to modify it and say, "Liberty National, you either take it or leave it"?

Q Let me defer that question for a second and ask you this question: Do you have an opinion as to whether or not the court could make a conditional approval of this settlement by saying, "I approve it subject to these conditions," and maybe set out the conditions that you are going to give us?

A Well, obviously, a settlement is consentiently.

[p. 251] Q I understand.

A And, so, the judge can't cram the settlement down.

Q Assume if everybody would accept it.

A If the judge says, "I think 'X', 'Y', 'Z' and 'E' and 'B' have got to be a part of any settlement, and I'm not going to approve it until it is in there, and I'll give both parties twenty days to communicate to me whether or not that is acceptable," that would be I think an appropriate way of dealing with an objection to a settlement of a class action.

Q What all categories of policyholders do you believe ought to be allowed to opt out?

A Each and every one.

Q In other words across the board?

A Right. That is an abstract question there. You asked me is there a way to deal with that problem as we sit here today, and you are getting out of - kind of working at a solution to the problem.

Q That is why I phrased it that way. What group of persons and categories would you say should be allowed to opt out to make this a workable settlement?

A I'm not - I want to make sure when I speak that the court doesn't accept whatever I say as the views of every objectors' lawyers out there. I'm not [p. 252] representing a class of objectors. These are my views.

I think that the notice to the extent that it tells people if they don't do something by a certain time, which is pretty darn clear, and I would think from that it could be deduced that anybody who had not come forward within the deadline or as reasonably extended for late filings or whatever, should be held quite fairly as a waiver of the rights to object to a no opt out settlement. Once you get to that point, then you look at the people who have come in an objected and said, "Your Honor, we want our jury trial." I firmly believe under the laws of the State of Alabama they have a right to a trial by jury, all of the class members. And, I would propose that the pot be enhanced by a punitive damage additional component, and then each of the people who have come in and objected would be viewed as having valid rights to take their case to a trial by jury. If they wanted to come in and take a pro rata share of that pot in exchange for waiving their right to trial by jury, and accepting the settlement, then let them do so. Those who said, "No, I still want to go to trial," would be entitled to their opt out, but it

would be with the understanding that if the court's additional punitive damage component is substantial enough to raise a Green Oil curtain drop, then I would assume that those individual litigants who took their claims back to their [p. 253] various circuits and tried to file them on their own, might find some problems in the cases having little value other than the compensatory value component. And that is my response to what I have heard, and I have seen in your briefs, and I heard Richard Gill testify. And Richard is a good friend, and we have agreed on a lot of things, and we disagree on this one, but there is policy argument being made that the greater good requires that a mandatory class action be conducted so that everybody can be brought in and you don't have the risk of one person winning the lottery.

As I argued in the Supreme Court, one of the great difficulties that even the most outstanding advocates at the plaintiff's bar here, with the punitive damage system we have in Alabama is it is so hit or miss, and one person can get like - since this settlement was negotiated and consummated, the Supreme Court has affirmed \$13 million for the fraud of one single agent in Montgomery. Of course, that is information that y'all didn't have when this settlement was negotiated, and you can't be held to clairvoyance. But, nonetheless, the idea of trying to fix a finite sum is difficult, but once the punitive damage award is adequate then these cases around the State won't be worth that much.

Q Would you agree with me that no attorney can tell his client with absolute certainty as to what the [p. 254] outcome of any particular fraud case would be with any particular jury?

A Absolutely.

Q Let me ask you this.

A Let me interrupt. When I argued in the Supreme Court about the policy propositions, that greater good and all that, that may be an idea whose time has come, but I'm firmly convinced that it must come from a Constitutional Amendment. The rule of procedure cannot be cranked up and jury trial rights shut down in an effort to consummate the greater good.

Q Did you ever take the position in writing that an excessive jury award in punitive damages violates the U.S. Constitution?

A Yes, I have.

Q And at what level do you believe in this case that a punitive damage award will violate the U.S. Constitution?

A Well, I have taken the position, I don't know whether in writing or orally or whatever, that a mechanism that is used in the federal system is a trebling of the actuals plus attorney's fees or you could have a quadruple or five times multiple. And if you look at what the actual damages component of the settlement that is on the table in this case is, as stripping out the \$3 million that is now [p. 255] being considered as punitive damages, you could support an argument that three or four times, \$30 million, would be a reasonable punitive damages award, then you have got to crank back in factors such as net worth and so forth. So, restricting it to the profits

gained I think probably is a more generous rule on punitive damages than the traditional multiples in federal court.

Q And you told us two-thirds of the profits in this case plus the \$10 million of insurance that could be available would be – would meet the Constitution test.

A And, again, there is no real – I mean, it is hard to come up with that. I mean, I have some misgivings about coming in here and second-guessing your efforts. This is not an exact science but just my best feelings.

Q Y'all weren't to [sic] bashful in your briefs about second-guessing. I'm not offended. I would ask you this: What is your fee in this case of your two hundred claims?

A I don't know.

Q What do you think?

A A third maybe?

A A third, I don't know.

Q Mr. Gill testified as to the fee in this case, and I believe he stated in his opinion it was a reasonable fee based on a percentage basis of the total –? Would you agree with that testimony?

A I haven't had a chance or been given the [p. 256] opportunity to study any time records or anything like this. If it is forty million hard dollars that you have recovered and no more, and you are recovering a fee of \$4.5 million, I can't say that is unreasonable.

Q Let me ask you this, and put this hypothetical to you: Assume that Liberty National slipped off this evening and offered your clients one hundred thousand dollars each if they would just settle their cases and go home and forget about the lawsuit, forget about objecting and everything else, and I'm not putting that in their minds, but –

MR. GEWIN: You don't have to worry about that.

Q But, assume they went out to Lakepoint tonight and got drunk and made that offer to you in good faith, after they had time to get back to their senses of some normal range, and you took those offers back to the two hundred clients and said, "Clients, we have an offer that Mr. Gewin on behalf of Liberty National that you have sued has made, he wants to pay each one of you one hundred thousand dollars. Would you take it?" All but one said "Absolutely". What are you going to do about that one?

A Well, –

Q That one says, "I want to go to court and get ten hundred million"?

[p. 257] A I guess we would ask him to get another attorney.

Q You would settle with the rest?

A I suppose so.

Q Okay. You haven't guaranteed any of your clients, I'm sure, any certain amount that they are going to

be awarded by a jury in your county or anywhere else have you?

A No. I already said you cannot make a guarantee of that.

Q Can you think of anything else that you would add to the settlement other than adding additional monies to it that would make this acceptable to the two hundred clients that you represent?

A Not right here.

MR. BEASLEY: That is all. Thank you.

CROSS-EXAMINATION

BY MR. GEWIN:

Q Mr. Lyons, have you had occasion to determine actuarially or otherwise what the value is to a person who had the old policy which lapsed and who now has cancer of reinstating that policy without providing evidence of insurability?

A No.

Q That would be a benefit that is available to [p. 258] class members that would not be available if this class is not approved, is it not?

A Well, they could file suit and get actual and punitive damages.

Q Well, assume they lapsed that policy in 1976. They would have a statute problem wouldn't they?

A True.

Q As a matter of fact, one of the settlement features that is made available here is that the restitution that is being offered is being offered without regard to stale claims and statute barred claim, isn't it?

A Well, maybe there should be a subclass of people for whom the statute has run so they could be treated differently.

Q No, sir, I'm sorry. I thought - the question is, aren't you aware that the people whose claims are barred by the statute are still getting full restitution?

A I haven't read it that closely. If you say so -.

Q I say so, and I think that is very important, Mr. Lyons, because we are waiving the statute of limitations on these people for purposes of making full restitution. So, I would say that is a pretty big plus. Wouldn't you agree?

A Well, if the plaintiff is in the category of [p. 259] having a barred claim -?

Q Several members of the class I can assure you are.

A But the main plaintiff is not?

Q No, sir, he is not. But, what about the people he is representing in the class? Would you agree waiving the statute of limitation on a claim that might go back to '86 or '87 would be a valuable thing?

A Well, as long as everybody has a right to opt out that is a great idea.

Q Wouldn't it be a great idea for someone that didn't have a right to opt out if he had a claim that was statute barred to be able to assert that in his case?

A Well, for the greater good, I guess the person who has got a time barred claim would be paid off where he wouldn't if he went to the courthouse at the sacrifice to a trial by jury for the one whose time is not -

MR. GEWIN: (Interposing) I would like to move to strike the nonresponsive part of that.

Q I'm asking you whether or not it would be a real benefit for a person with a time barred claim to be able to come in and make a claim for restitution.

A And I answered it in contrast to the detriment of the other people.

Q I'm just asking you about the benefits to the [p. 260] people that are time barred right now. I understand you want to bring out the rest.

Let me ask you this: What about someone who had a new policy, did the exchange and lapsed that new policy but now wants to have it reinstated that has cancer? That would be a substantial benefit without providing evidence of insurability wouldn't it?

A Assuming he couldn't file his own lawsuit.

Q Yes, sir. Maybe that time barred too?

A Maybe so.

Q All right, sir. You would agree that is a benefit wouldn't you?

A That is benefit if the statute has run.

Q And these are benefits that the class counsel has been able to get for class members, isn't it?

A Some of them are going to benefit more than others. It looks like some of the people that are not legally entitled to anything are getting something.

Q Well, you say they are not legally entitled to anything, that shows that class counsel has been pretty hard-nosed in negotiating benefits for people who had these policies, doesn't it?

A For some, yes, sir.

Q Of course, you have got 394,000 people out there. By the way, you said something like 250 or 270,000, [p. 261] you're not really sure how many people are in this class are you?

A No, I'm not. There are more knowledgeable people, and I don't think the judge is going to need to find out from me the size of the class.

Q Yes, sir, I agree. But, you're talking about how much is needed to punish the company, and that sort of thing, and you haven't made any attempt to determine how many people are in this class for purposes of figuring out, well, if you take \$10 per person or \$1,000 per person, or a \$100,000 per person would that would to do [sic] Liberty have you?

MR. SIMS: We have been enjoined in this case from proceeding in any manner, and we have not been allowed discovery.

MR. GEWIN: Our net worth is a matter of public record, and the number of class members is a matter of public record.

WITNESS: Is the profits a matter of public record?

MR. GEWIN: I believe it is.

Q (Mr. Gewin continuing) Well, let me ask you this? Let's take a claimant who we will call a cap buster - you understand what that means?

A Right.

[p. 262] Q And, let's assume that that person had cancer, and had claims that exceeded the caps by \$200,000 back in 19 - let's say back in 1989, and was aware of that, and claims that that was wrong under the policy, Let's just assume that, have you made any computations about what that person would be entitled to?

A If the statute has run?

Q Yeah.

A Probably nothing.

Q Have you made any computations as to what that person would be entitled to under this settlement?

A They would be entitled to the benefits of the person who has penetrated the caps and given a chance to take part out of the fund.

Q Now, how much would that be?

A I guess it depends on how much they had in medical bills.

Q I'm asking you to assume they had a \$200,000 differential because of the cap busting mechanism, and, of course, you understand that a lot of people came out better under the new policy than the old policy, right?

A I'll take your word for that.

Q Well, you know that to be true don't you? Some didn't but some did.

A Some didn't, some did. I'll take your word for [p. 263] that.

Q All right, sir. Now, let me ask you this: The first thing that person who had a time barred claim would get the \$200,000 difference?

A If you say so. You're more familiar with it than I am.

Q You have read the settlement agreement haven't you?

A Yes.

Q You know that person gets full and complete restitution don't you?

A To the limit of the fund.

Q No, sir, it is not limited to the fund.

A It is more or -

Q (Interposing) Take my word for it, it is unlimited to any fund, full and complete restitution, Mr. Lyons.

A All right.

Q You're not aware of that?

A No.

Q In addition to that, that person gets to participate in the \$3 million fund doesn't he?

A If you say so.

Q Well, I'm asking you do you know?

A No, I don't.

[p. 264] Q Do you realize that in the other fund, the \$3 million, that that is to be determined by the court either, based on the number of people who busted the caps or on the amount of dollars they busted?

A All right.

Q Maybe both, maybe a mixture.

A All right.

Q Well, if that person also - if they had a \$200,000 claim that exceeded the caps and the total amount of claims that we have here, by cap busters, are \$2 million, then that would be ten percent. You would have at least a chance to make ten percent claim against that \$3 million fund wouldn't he?

A If he has a lot of out-of-pocket damages they are going to be reimbursed.

Q No, sir. We have already talked about all the out-of-pocket damages to be reimbursed to the tune of \$200,000. I'm talking about in addition to that he would get, if the court says, "I'll prorate your claim, your claim to the extent you exceeded the caps against all claims that exceed the caps right now," do you how much the cap busters have claimed total?

A No.

Q You don't have any judgment?

A No.

[p. 265] Q You don't know whether it is \$2, \$3 or \$4 million?

A No.

Q I'll ask you to assume it is \$2 million; I'll ask you to assume that the pot over here of \$3 million. If that person has a \$200,000 cap bust, and the court gives him ten percent of that amount, ten percent of the \$3 million would be another \$300,000 wouldn't it?

A Right.

Q That person would then get \$200,000 in restitution plus \$300,000 out of the cap fund. That would be half a million dollars just in that hypothetical, wouldn't it, without hiring a lawyer?

A Right.

Q That would be a pretty good benefit wouldn't it?

A He might would rather have a trial by jury.

Q I'm just asking you, have you done that sort of calculation in talking to your 200 clients?

A I have in my own mind weighed the benefits of that kind of claim as compensated for by the settlement versus the value of that kind of claim with a trial before a jury, and, in my judgment if those are your facts, I think they would probably be better off trying the case to a jury.

[p. 266] Q Let me ask you this: If you were the first one up, right?

A Well, more than the first one up, unless you expect to lose one case to the tune of \$100 million, and if the fraud is as egregious as Mr. Beasley says you might.

Q Then you would be barred from any more?

A Right.

Q And Mr. Beasley asked you a question about the internal conflict between the two hundred people you had, and you acknowledged that there would be a problem, several things that you have to talk to those people about, right?

A Right.

Q As a matter of fact, you also got an external conflict with the other members of the bar who also want to get their cases tried, and tried first, right?

A Well, I have never had an external conflict.

Q Mr. Lyons, I have had a lot of them, but I'm talking about in this case. You would agree there is a certain incentive to get your case in there in a hurry and get it tried because you want to get it in there before that Green Oil curtain drops don't you?

A Absolutely.

Q And that is a real strong motivation in all the people trying to get those cases to trial in Mobile and other places, isn't it?

[p. 267] A That's right.

Q In that regards have you determined how you're going to push those two hundred cases to trial, whether you're going to try your cap busters first or the noncap busters or how are you going to do that?

A We would get our clients together and make a decision on that.

Q You haven't done that already have you?

A If it has be done I don't know. I told you, I have not been involved in dealing with those clients.

Q You haven't got an agreement between the Mobile counsel as to what order those cases are going to go in and who's going to go first, who might hit the jackpot and who might not hit anything, right?

A That's right.

Q Were you familiar with the fact - you're familiar with the fact that the Edith McAllister case, that it tried, right?

A Yes, sir.

Q Are you familiar with the fact that in that case the plaintiffs lawyers asked the jury to punish Liberty National for not only for Edith McAllister but all the other people like Edith McAllister?

A I didn't attend the trial.

Q Have you heard that? Do you know that?

[p. 268] A No.

Q That would be an indication that someone was trying to get all of the punishment in one case, wouldn't it? I'll ask you to assume that.

A Yes, that would be that.

Q Okay. And if a jury determines how much punishment due to be assessed, that would be some indication of what a fact finder or punitive award would be wouldn't it?

A Yes, that is some indication, yes.

Q Now, since you don't know how much in claims have been made, and you have not done your own evaluation of these injunctive relief things like premiums, you don't have a personal opinion as to the total value of this case, do you, in terms of what has been proposed other than what Mr. Moyse testified here?

A Well, wait a minute.

Q That is a long question. I'm sorry, that is a bad question.

A Injunctive relieve is like freezing the premiums and does that distinguish from the injunctive relief, they don't commit further fraud?

Q Yes, I think it is, injunctive relief to freeze premiums. Have you made any calculations as to the value of that?

[p. 269] A No, I haven't.

Q Are you counting that in as part of the punishment that you're assigning against Liberty in this case?

A I would have to know what the profit was.

Q Well, what about the injunction that requires us to retrospectively treat all of these policies as though

there were no caps on them, and to give people benefits going back to the summer of 1993 as though the policies were rewritten, to have no caps. Have you made any analysis of the value to the class and to the detriment of Liberty National to doing that?

A No.

Q Let ask you this: Have you had occasion to read this policy?

A No.

Q You haven't read either the old policy or the new policy?

A No, sir.

MR. GEWIN: I believe that is all.

EXAMINATION

BY THE COURT:

Q Mr. Lyons, one of your criticisms was there is not enough money -

A Yes, sir.

[p. 270] Q - being paid under the settlement?

A Yes, sir.

Q On the full restitution part, if they had a trial they would be entitled to full restitution under a contract claim, right, the difference?

A The plaintiffs would be entitled to their money damages under the breach of contract or would have a fraud claim too.

Q Yeah, but -

A (Interposing) The actual damages.

Q And then those actual damages could be mental anguish and pain and suffering could be in there?

A It could be included.

Q All right. Would you think it would make a settlement fair if you added some to their full restitution for mental anguish, say, half again what the claim was; have ten thousand dollars difference and half again that, five thousand dollars to the mental anguish? Would that make the settlement more fair?

A Yes, sir. And there are problems of administration of mental anguish because it may vary from case to case, but that is certainly an unaddressed component of the package that is on the table, is the value to people.

Q Which would be compensatory damages as opposed [p. 271] to this \$3 or \$4 million punitive damages?

A Exactly. It is considered compensatory.

Q Okay. But, as I understand it, it is your opinion there is no way that this settlement can be upheld and be fair if there is not a provision to opt out for everybody that's in the class?

A I think the Alabama Constitution insists that be the result, because of the jury trialable nature of the claims that are being released by the settlement.

Q Okay. Leaving the Constitutional issue aside for the moment, do you think there is any way it could be fair to members of the class without an opt out provision?

A Your Honor, you're asking me to assume that when all is said and done, and there is legitimate basis under Alabama law for a no opt out?

Q Yes, sir.

A And then what was your question?

Q Could this settlement be made fair?

A You would have -

Q (Interposing) By adding money to it?

A Oh, I would think you would have to add money to it to make it fair. Once you have got a court up the line approved no opt out class, and then you come to address how you settle the case, it becomes a question of an issue of money I think to make it a fair enough [p. 272] settlement.

Q And you don't think that there could be an opt, out on those that the cap busters and a not opt out on those that did not have a claims account?

A That has an appealing sort of practical ring to it, but conceptually in my judgment the Alabama law is so clear that a person in this setting even who has not made a claim has got a right to actual damages and mental anguish, that you couldn't disregard that individual's right to trial by jury which would be the effect of a mandatory class action.

Q So, then, what you are saying is in your opinion there is no way it could be a fair settlement unless there is an opt out provision -

A (Interposing) Yes, and the way to make it a practical settlement that could fly is to require enough to be put into it for punitive damages so it would discourage the opt outs from ever going to court, because theoretically a trial judge who has already seen a punitive damage award rendered for the prior wrong in my judgment would be on sound grounds to grant a partial summary judgment on punitive damages.

Q Damages unless the court ordered compensatory?

A And that would have a chilling effect on the onslaught of litigation that has been talked about.

[p. 273] THE COURT: Thank you.

WITNESS: Judge, may I be excused?

THE COURT: Anything else?

(THEREUPON, the witness was excused from the stand.)

MR. OLEN: I want to make it clear on the record that Mr. Lyons indicated in testimony that he doesn't speak for all the objectors. We certainly don't want to be bound by his testimony as being the limits of all the objectors. We all stand by all the objectors -

THE COURT: (Interposing) That will be fine for on the record. If you want to get up here on the stand they may want to ask you some questions.

MR. OLEN: I just want to make that clear.

THE COURT: I think you made it clear in his testimony that he didn't speak for anybody but himself.

MR. OLEN: I want to make it clear that we reserve all of our objections and don't stand just on -

THE COURT: (Interposing) That will be fine.

EDWARD PATRICK McGUIRE

the witness herein, after first having been duly sworn,
was

* * *

LIBERTY NATIONAL LIFE INSURANCE COMPANY
Cancer Policy

| | | |
|--|--|----------------------|
| Insured | Premium and Frequency Chosen by You 1982 Series | 7022 Plan |
| Policy Number | Age and Sex | Agency |
| Month Day Year Effective Date | Alternate Premium | District |

Insuring Clause

We insure you against losses due to hospital confinement and other specified expenses resulting from treatment for cancer of you or your dependent child. Such cancer must be first manifested thirty or more days after the effective date of this policy. Cancerous moles or skin lesions must be first manifested ninety or more days after the effective date. Cancer is manifested when symptoms exist which would cause an ordinarily prudent person to seek diagnosis, care, or treatment. Your coverage begins on the effective date of this policy shown in the schedule above and continues while this policy is in force.

Right to Examine Policy

Please examine your policy carefully. Within 10 days after this policy is first received, it may be returned to us or to the agent through whom it was purchased. If returned, the policy will be as though it had never been issued. Any premiums paid will be returned.

Guaranteed Renewable; Premiums Subject to Change

Your policy is guaranteed renewable for life. You may renew this contract by paying each renewal premium as it falls due or during the grace period. We cannot cancel or refuse to renew your policy. We reserve the right to change premium rates. A change in the rates will apply to all policies of this form issued by us and in force in the state where you live. If we change the rates, your premium will be determined by your age on the effective date of this policy; your sex; and the year of issue of this policy. If we change the rates, we will write you before the change at the address shown in our records. We will not restrict or limit your policy in any other way while it is in force.

Signed for Liberty National Life Insurance Company
as of its effective date.

/s/ William C. Barclift
Secretary

/s/ John S.P. Samford
President

THIS IS A LIMITED POLICY READ IT CAREFULLY

Please Read:

The basis for this policy is the information on the application. Subject to the provision, "Time Limit on Certain Defenses," misstatements or omissions in the application may void the policy or cause an otherwise valid claim to be denied. Advise us immediately if any information on the application is wrong or if any past medical history has been left out.

CANCER POLICY

BENEFITS FOR EXPENSES INCURRED DUE TO HOSPITAL CONFINEMENT AND OTHER SPECIFIED EXPENSES RESULTING FROM TREATMENT FOR CANCER OF THE INSURED OR A DEPENDENT CHILD TO THE EXTENT HEREIN LIMITED AND PROVIDED.

GUARANTEED RENEWABLE FOR LIFE - SUBJECT TO CHANGE IN PREMIUM RATES INITIAL PREMIUMS SHOWN ON PAGE 1 - NONPARTICIPATING

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Application

(Attached to the Policy)

DEFINITIONS

We, Our, Us - Liberty National Life Insurance Company.

You, Your - The person named as the insured under this policy.

Hospital - An institution which meets all of the following requirements:

1. Operates pursuant to law;
2. Operates mainly for the care and treatment of sick or injured persons as inpatients for a charge;
3. Provides 24-hour nursing service under the supervision of a registered nurse;
4. Is supervised by a staff of licensed physicians; and

5. Has medical, diagnostic and major surgical facilities or has access to such facilities.

The term "hospital" does not include:

1. Convalescent, rest, or nursing facilities;
2. Facilities for the aged, alcoholics and drug addicts; or
3. Any government hospital except for services rendered on an emergency basis where legal liability exists for charges made to the individual.

Ambulatory Surgical Center – A facility that meets all of the following requirements:

1. Provides elective surgical care as its primary purpose;
2. Admits and discharges patients within the same working day; and
3. Is not a part of a hospital.

The term "ambulatory surgical center" does not include:

1. A facility whose primary purpose is to provide therapeutic abortions;
2. A office maintained by a physician for the practice of medicine; or
3. An office maintained for the practice of dentistry.

Cancer – Leukemia. Hodgkin's disease, or any form of malignant growth positively diagnosed as cancer (malignant neoplasms) by a licensed doctor of medicine or Osteopathy other than yourself. Such diagnosis must be based on a bioptic examination performed by a recognized Pathologist.

Surgical Procedure – A procedure listed in the surgical schedule and procedures involving cutting, suturing,

electrocauterization, coagulation, chemosurgery, endoscopic procedures, and reduction of fractures. Two or more procedures performed through the same incision will be considered as one surgical procedure. The amount payable will be equal to the largest of the amounts for the respective procedures.

Dependent Child – Your children, legally adopted children, and step-children who:

1. Are named in the application for this policy or are born or acquired after the effective date of this policy;
2. Are less than twenty-one years of age;
3. Are unmarried; and
4. Either live with you or are dependent upon you for over fifty percent of their support.

The coverage for newly born children will consist of coverage for sickness due to cancer including the necessary care or treatment of medically diagnosed congenital defects, birth abnormalities, or prematurity if due to cancer.

The insurance on any dependent child will terminate:

1. At the earliest of: the child's marriage; the date the child no longer lives in your home or ceases to be dependent upon you for over fifty percent of his or her support if not living with you; or the child's twenty-first birthday;
2. At the earliest of: the child's marriage; the date the child no longer lives in your home or ceases to be dependent upon you for over fifty percent of his or her support if not living with you; or the child's twenty-fifth birthday. This paragraph will be effective only if the child has been enrolled as a full-time

student in a college or university for 5 or more months each year since age twenty-one. The condition of enrollment will be met if a dependent child was eligible for enrollment but was prevented from enrollment due to injury or sickness. Otherwise, such child's coverage will terminate in accordance with paragraphs 1 or 3; or

3. At the earliest of: the child's marriage; or the date the child no longer lives in your home or ceases to be dependent upon you for over fifty percent of his or her support. This paragraph will be effective only for mentally or physically incapacitated dependent children under the following conditions:
 - a. the policy remains in force;
 - b. the child is not covered under another cancer policy issued by us; and
 - c. due proof of such incapacity and dependency is received by us within thirty-one days of the child's twenty-first birthday.

Otherwise, such child's coverage will terminate in accordance with paragraphs 1 or 2. While the dependent child remains mentally or physically incapacitated, we may require proof of such incapacity and dependency. However, after two years from the child's twenty-first birthday, we will not require such proof more than once a year.

BENEFITS

The benefits specified below cover expenses incurred in the hospitalization or treatment of cancer. Such expenses will consist of the actual charges by the hospital physician, or other providers subject to the limitations contained herein. No benefits will be paid in excess of the

usual and customary charges made by the provider of services or treatments.

Hospital Expense

- Covered Services: room and board, operating rooms, anesthetics, surgical dressings, X-ray examinations, laboratory tests, drugs, medicines, oxygen, or other necessary medical services or supplies.
- Maximum payment of \$60.00 per day of confinement.

Ambulatory Surgical Center Expense

- Covered Services: operating rooms, anesthetics, surgical dressings, X-ray examinations, laboratory tests, drugs, medicines, oxygen, or other necessary medical services or supplies used in any surgical procedure.
- Maximum payment of \$100.00 in any one day.

Radiation Therapy and Chemotherapy Drugs Expense

- Covered Services: charges by hospital or physician for radiation therapy; chemotherapy drugs; and professional administration, preplanning laboratory tests and diagnostic X-ray related to such therapy.
- Charges Not Covered: charges by the hospital for room and board, use of operating rooms, anesthetics, surgical dressings, oxygen, or other medical services or supplies; charges by the hospital for X-ray examinations, laboratory tests, drugs, or medicines not specifically related to radiation therapy or chemotherapy.
- No maximum limit.

Attending Physician Expense

- Charges Not Covered: surgery, postoperative care, radiation and chemotherapy.
- Maximum payment of \$15.00 per day.

Surgical Expense

- Covered Services: surgical procedures and postoperative care by the operating surgeon or surgeons.
- Maximum payment for one operation to be the amount shown in the surgical schedule below. The amount payable for a surgical procedure not listed will be determined on a consistent basis with the surgical schedule. The maximum amount payable for any such procedure is \$800.00.

Anesthetist Expense

- Charges not covered for anesthesia administered in non-surgical procedures.
- Maximum payment of \$100.00 for each surgical procedure.

Nursing Expense

- Benefits for care and attendance by either a graduate registered nurse or a licensed practical nurse.
- Charges not covered for nurses who are members of the patient's family or who customarily live with the patient.
- Maximum benefit of \$30.00 per day.

Blood Transfusion Expense

- Covered Services: blood or blood components; expenses incurred for blood donors.
- Charges Not Covered: laboratory tests, supplies, or blood subsequently replaced by donor.
- No maximum limit.

Prescription Drugs and Medicines Expense

- Benefits for drugs and medicines, including oxygen, prescribed by a licensed physician and administered outside of a hospital or ambulatory surgical center.
- Charges Not Covered: drugs and administration thereof while confined in a hospital or ambulatory surgical center; administration of drugs and medicines including oxygen.
- No maximum limit.

Transportation Expense

- Benefits for any person insured under this policy and one attendant for transportation by commercial aircraft, railroad, bus, or professional ambulance exclusive of air ambulance, to and from any hospital in the continental United States to receive specialized treatment.
- Conditions: transportation by the method chosen must be deemed to be medically necessary by the attending physician.
- Charges Not Covered: transportation when not deemed to be medically necessary by the attending physician charges in excess of the current commercial rate for the mode of transportation used; transportation by charter aircraft or an ambulance.

- Maximum of six trips to and from a hospital in a twelve-month period.

EXCEPTIONS

This policy does not cover: treatment in a governmental hospital; and treatment or services for which no charge is normally made in the absence of insurance.

SURGICAL SCHEDULE

| Procedure | Maximum Amount |
|---|----------------|
| ABDOMEN | |
| 49000 Exploratory laparotomy | \$260.00 |
| 43620 Total gastrectomy | 600.00 |
| 43630 Partial gastrectomy, without vagotomy | 435.00 |
| 44140 Partial colectomy | 445.00 |
| 44150 Total colectomy, with ileostomy | 615.00 |
| 45110 Complete proctectomy, combined abdomino-perineal .. | 620.00 |
| 44320 Colostomy or skin level cecostomy | 280.00 |
| 43110 Esophagectomy | 690.00 |
| 43832 Gastrostomy, permanent | 380.00 |
| 51580 Complete cystectomy with ureterosigmoidostomy | 800.00 |
| 51570 Complete cystectomy | 600.00 |
| EYE | |
| 65101 Enucleation of eye | 235.00 |
| BRAIN | |
| 61304 Exploratory craniectomy or bone flap craniotomy | 800.00 |
| 61510 Excision of brain tumor | 800.00 |

| | |
|--|--------|
| BREAST | |
| 19200 Radical mastectomy, unilateral .. | 440.00 |
| 19180 Simple mastectomy, unilateral | 295.00 |
| CHEST | |
| 32100 Exploratory thoracotomy with biopsy | 380.00 |
| 32440 Pneumonectomy | 690.00 |
| EXTERNAL-GENITALIA | |
| FEMALE | |
| 56635 Radical vulvectomy with inguinal lymphadenectomy | 600.00 |
| 57521 Biopsy of cervix | 150.00 |
| MALE | |
| 54135 Complete amputation of penis with lymphadenectomy | 700.00 |
| 54530 Radical orchiectomy | 185.00 |
| GENITO-URINARY TRACT | |
| 50220 Nephrectomy | 410.00 |
| 52232 Cystourethroscopy for 0.5-2.0 cm bladder tumor | 110.00 |
| 52235 Cystourethroscopy for 2.0-5.0 cm bladder tumor | 235.00 |
| 52240 Cystourethroscopy for 5.0 cm and larger bladder tumor | 350.00 |
| 52601 Transurethral resection of prostate | 385.00 |
| 55810 Radical prostatectomy | 535.00 |
| 58150 Total hysterectomy | 355.00 |
| 58210 Total hysterectomy with radical lymphadenectomy | 710.00 |
| SKIN | |
| 11601 Trunk, arm, leg, 1/4-1/2 inch lesion | 35.00 |
| 11621 Scalp, neck, hand, foot, genitalia, 1/4-1/2 inch lesion | 45.00 |

| | | |
|-------|--|--------|
| 11641 | Face, ear, lip, nose, mucous membrane, 1/4-1/2 inch lesion .. | 60.00 |
| | THROAT | |
| 31360 | Laryngectomy, without radical neck dissection | 485.00 |
| 60240 | Total thyroidectomy..... | 385.00 |
| 60250 | Total thyroidectomy with radical neck dissection | 730.00 |

GENERAL PROVISIONS

Conversion

In the event that coverage with respect to any dependent child terminates in accordance with definition of dependent child, or expires for reasons other than for failure to pay premiums when due, such dependent child will be entitled to have issued to him or her an individual policy of cancer insurance. The converted policy will:

1. Be issued at the attained age of the dependent child;
2. Be issued without evidence of insurability;
3. Be most nearly similar to this policy which is then being issued by the company; and
4. Waive any probationary periods or time limits on certain defenses to the extent they have been fulfilled under this policy.

Written application for such policy and payment of the first premium must be made within thirty-one days after termination of insurance under this policy. The converted policy, if issued, will take effect on the day following termination of coverage under this policy. Any special exclusion applicable to such dependent child under this

policy will also apply to such person under any converted policy.

Consideration

The application and the payment of the required premiums are the consideration for this policy. The receipt of the first premium is hereby acknowledged.

Premium Payments

When Payable

Premiums are payable in advance beginning on the effective date. The schedule on page one shows the amounts and frequency of premium payments.

Where Payable

Premiums are to be paid to us either at one of our offices or to one of our agents. A receipt for premium payments will be furnished. If premiums are paid on a monthly basis, a premium receipt card may be furnished in lieu of an official premium receipt. Failure of an agent to call for a premium collection when due does not excuse the premium payment. In such event, premiums must be paid at one of our offices.

Frequency Of Payment

Premiums may be paid annually, semiannually, quarterly or monthly. The frequency of premium payments may be changed with our consent by filing a written request on a form satisfactory to and accepted by us. The change in

the frequency of premiums will then become effective on the next premium due date. The payment of any premium will not continue this policy in force beyond the date when the next premium becomes due.

Entire Contract; Changes

This policy with the application and attached papers is the entire contract between you and the company. No change in this policy will be effective until approved by an executive officer of the company. This approval must be noted on or attached to this policy. No agent may change this policy or waive any of its provisions.

Age Limits

The coverage provided by this policy on you will not become effective if, at your correct age, you were over sixty-four years of age on the effective date. In the event your coverage would not have become effective, our liability will be limited to a refund. Such refund must be requested by you and will be equal to all premiums paid for such coverage.

Time Limit On Certain Defenses

Misstatements In The Application

After two years from the effective date no misstatements in the application may be used to void the policy or deny any claim for expenses incurred after the two-year period.

Pre-existing Conditions

No claim for expenses incurred after two years from the effective date will be reduced or denied because a sickness or physical condition not excluded by name or specific description before the date of expenses incurred had existed before the effective date of coverage.

Grace Period

This policy has a thirty day grace period. This means that if a renewal premium is not paid on or before the due date, it may be paid during the grace period. During the grace period, the policy will stay in force.

Reinstatement

If the renewal premium is not paid before the grace period ends, the policy will lapse. Later acceptance of the premium by us or by our agent without requiring an application for reinstatement will reinstate the policy. If an application is required, you will be given a conditional receipt for the premium. If the application is approved, the policy will be reinstated as of the approval date. Lacking such approval, the policy will be reinstated on the forty-fifth day after the date of the conditional receipt unless we have previously written you of its disapproval. The reinstated policy will cover only loss that results from cancer that is manifested more than ten days after the date of reinstatement. In all other respects your rights and our rights will remain the same, subject to any provisions noted or attached to the reinstated policy.

Notice Of Claim

Written notice of claim must be given within thirty days after any covered treatment or hospitalization starts, or as soon as reasonably possible. The notice can be given to us at our home office or to one of our agents. Notice should include your name and the policy number.

Claim Forms

When we receive the notice of claim, we will send you forms for filing proof of loss. If these forms are not given to you within fifteen days, you will meet the proof of loss requirements by giving us a written statement of the nature and extent of the loss within the time limit stated in "Proofs of Loss".

Proofs Of Loss

Written proof of loss must be given to us within ninety days after the date of each loss. If it was not reasonably possible to give written proof in the time required, we will not reduce or deny the claim for this reason if the proof is filed as soon as reasonably possible. In any event, the proof required must be given no later than one year from the time specified unless you were legally incapacitated.

Time Of Payment Of Claims

Benefits provided by this policy will be paid as soon as we receive proper written proof of loss.

Physical Examination

We may examine you or your dependent child when reasonably necessary for our consideration of your pending claim. This will be done at our expense.

Payment Of Claims

All benefits will be paid to you, unless you direct otherwise in writing. Any benefits unpaid at your death may be paid, at our option, to your surviving spouse or your estate. If the benefits are payable to your estate or if you cannot execute a valid release, we can pay benefits up to \$1,000 to someone related to you by blood or marriage whom we consider to be entitled to the benefits. We will be discharged to the extent of any such payments made in good faith.

Legal Action

No legal action may be brought to recover on this policy within sixty days after written proof of loss has been given as required by this policy. No such action may be brought after three years from the time written proof of loss is required to be given.

Misstatement Of Age Or Sex

If your age or sex has been misstated, the benefits will be those the premium paid would have purchased at the correct age and sex. For the purpose of this policy, your age and the age of your dependent children will be the age last birthday on the effective date of the policy. If the coverage to you or your dependent child provided by this

policy at the correct age would not have become effective or would have terminated, then our liability will be limited to a refund. Such refund must be requested by you and will be equal to the portion of the premiums paid for the period not covered by the policy and attributable to you or your dependent child.

Coverage Limited To One Policy

If any person covered by this policy is also insured under another cancer policy issued by us, only one policy chosen by you will be effective. We will refund the premiums for the other policy for the period such policy was in force concurrently with the policy chosen.

Conformity With State Statutes

Any provision of this policy which, on its effective date, is in conflict with the laws of the state in which you reside on that date, is amended to conform to the minimum requirements of such laws.

LIBERTY (LOGO) NATIONAL

LIFE INSURANCE COMPANY

2001 Third Avenue South
Birmingham, Alabama 35233

**When you write to us, please use the
following mailing address:**

P.O. Box 2612

Birmingham, Alabama 35202

**Cancer Policy - Guaranteed Renewable For Life
Subject To Change In Premium Rates -
Non Participating**

LIBERTY NATIONAL LIFE INSURANCE COMPANY

| Family Cancer Policy | | |
|--|--|------------------------|
| Insured | Premium and Frequency Chosen by You | 7022-3 Plan |
| Policy Number | Age and Sex | Agency |
| Month Day Year Effective Date | Alternate Premium | District |

Insuring Clause

We insure you against losses due to hospital confinement and other specified expenses resulting from treatment for cancer of you or your dependent. Such cancer must be first manifested thirty or more days after the effective date of this policy. Cancerous moles or skin lesions must be first manifested ninety or more days after the effective date. Cancer is manifested when symptoms exist which would cause an ordinarily prudent person to seek diagnosis, care, or treatment. Your coverage begins on the

effective date of this policy shown in the schedule above and continues while this policy is in force.

Right to Examine Policy

Please examine your policy carefully. Within 10 days after this policy is first received, it may be returned to us or to the agent through whom it was purchased. If returned, the policy will be as though it had never been issued. Any premiums paid will be returned.

Guaranteed Renewable; Premiums Subject to Change

Your policy is guaranteed renewable for life. You may renew this contract by paying each renewal premium as it falls due or during the grace period. We cannot cancel or refuse to renew your policy. We reserve the right to change premium rates. A change in the rates will apply to all policies of this form issued by us and in force in the state where you live. If we change the rates, your premium will be determined by your age on the effective date of this policy; your sex; and the year of issue of this policy. If we change the rates, we will write you before the change at the address shown in our records. We will not restrict or limit your policy in any other way while it is in force.

Signed for Liberty National Life Insurance Company
as of its effective date.

/s/ William C. Barclift
Secretary

/s/ John S.P. Samford
President

THIS IS A LIMITED POLICY READ IT CAREFULLY

Please Read:

The basis for this policy is the information on the application. Subject to the provision, "Time Limit on Certain Defenses," misstatements or omissions in the application may void the policy or cause an otherwise valid claim to be denied. Advise us immediately if any information on the application is wrong or if any past medical history has been left out.

FAMILY CANCER POLICY

BENEFITS FOR EXPENSES INCURRED DUE TO
HOSPITAL CONFINEMENT AND OTHER SPECIFIED
EXPENSES RESULTING FROM TREATMENT FOR
CANCER OF THE INSURED OR A DEPENDENT
TO THE EXTENT HEREIN LIMITED AND PROVIDED.
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Application

(Attached to the Policy)

DEFINITIONS

We, Our, Us – Liberty National Life Insurance Company.

You, Your – The person named as the insured under this policy.

Hospital – An institution which meets all of the following requirements:

1. Operates pursuant to law;
2. Operates mainly for the care and treatment of sick or injured persons as inpatients for a charge;
3. Provides 24-hour nursing service under the supervision of a registered nurse;
4. Is supervised by a staff of licensed physicians; and
5. Has medical, diagnostic and major surgical facilities or has access to such facilities.

The term "hospital" does not include:

1. Convalescent, rest, or nursing facilities;
2. Facilities for the aged, alcoholics and drug addicts; or
3. Any government hospital except for services rendered on an emergency basis where legal liability exists for charges made to the individual.

Ambulatory Surgical Center – A facility which meets all of the following requirements:

1. Provides elective surgical care as its primary purpose;
2. Admits and discharges patients within the same working day; and
3. Is not a part of a hospital.

The term "ambulatory surgical center" does not include:

1. A facility whose primary purpose is to provide therapeutic abortions;
2. An office maintained by a physician for the practice of medicine; or
3. An office maintained for the practice of dentistry.

Cancer – Leukemia, Hodgkin's disease, or any form of malignant growth positively diagnosed as cancer (malignant neoplasms) by a licensed doctor of medicine or Osteopathy other than yourself. Such diagnosis must be based on a bioptic examination performed by a recognized Pathologist.

Surgical Procedure – A procedure listed in the surgical schedule and procedures involving cutting, suturing, electrocauterization, coagulation, chemosurgery, endoscopic procedures, and reduction of fractures. Two or more procedures performed through the same incision will be considered as one surgical procedure. The amount payable will be equal to the largest of the amounts for the respective procedures.

Dependent – Your spouse named in the application for this policy, your children, legally adopted children, and step-children who:

1. Are named in the application for this policy or are born or acquired after the effective date of this policy;
2. Are less than twenty-one years of age;
3. Are unmarried; and
4. Either live with you or are dependent upon you for over fifty percent of their support.

The coverage for newly born children will consist of coverage for sickness due to cancer including the necessary care or treatment of medically diagnosed congenital defects, birth abnormalities, or prematurity if due to cancer.

The insurance on any child covered under this policy will terminate:

1. At the earliest of: the child's marriage; the date the child no longer lives in your home or ceases to be dependent upon you for over fifty percent of his or her support if not living with you; or the child's twenty-first birthday;
2. At the earliest of: the child's marriage; the date the child no longer lives in your home or ceases to be dependent upon you for over fifty percent of his or her support if not living with you; or the child's twenty-fifth birthday. This paragraph will be effective only if the child has been enrolled as a full-time student in a college or university for 5 or more months each year since age twenty-one. The condition of enrollment will be met if a dependent child was eligible for enrollment but was prevented from enrollment due to injury or sickness. Otherwise, such child's coverage will terminate in accordance with paragraphs 1 or 3; or
3. At the earliest of: the child's marriage; or the date the child no longer lives in your home or ceases to be dependent upon you for over fifty percent of his or her support. This paragraph will be effective only for mentally or physically incapacitated dependent children under the following conditions:
 - a. the policy remains in force;
 - b. the child is not covered under another cancer policy issued by us; and
 - c. due proof of such incapacity and dependency is received by us within thirty-one days of the child's twenty-first birthday.

Otherwise, such child's coverage will terminate in accordance with paragraphs 1 or 2. While the dependent child remains mentally or physically incapacitated, we may require proof of such incapacity and dependency. However, after two years from the

child's twenty-first birthday, we will not require such proof more than once a year.

Should you and your spouse become divorced, the coverage on your spouse will cease. Upon written request to us, the premiums on this policy will be reduced. Should you then remarry, coverage on your new spouse may be added by providing evidence of his or her insurability satisfactory to us. Additional premiums in accordance with premiums then in effect will be required.

BENEFITS

The benefits specified below cover expenses incurred in the hospitalization or treatment of cancer. Such expenses will consist of the actual charges by the hospital physician, or other providers subject to the limitations contained herein. No benefits will be paid in excess of the usual and customary charges made by the provider of services or treatments.

Hospital Expense

- Covered Services: room and board, operating rooms, anesthetics, surgical dressings, X-ray examinations, laboratory tests, drugs, medicines, oxygen, or other necessary medical services or supplies.
- Maximum payment of \$60.00 per day of confinement.

Ambulatory Surgical Center Expense

- Covered Services: operating rooms, anesthetics, surgical dressings, X-ray examinations, laboratory tests,

drugs, medicines, oxygen, or other necessary medical services or supplies used in any surgical procedure.

- Maximum payment of \$100.00 in any one day.

Radiation Therapy and Chemotherapy Drugs Expense

- Covered Services: charges by hospital or physician for radiation therapy; chemotherapy drugs; and professional administration, preplanning laboratory tests and diagnostic X-ray related to such therapy.
- Charges Not Covered: charges by the hospital for room and board, use of operating rooms, anesthetics, surgical dressings, oxygen, or other medical services or supplies; charges by the hospital for X-ray examinations, laboratory tests, drugs, or medicines not specifically related to radiation therapy or chemotherapy.
- No maximum limit.

Attending Physician Expense

- Charges Not Covered: surgery, postoperative care, radiation and chemotherapy.
- Maximum payment of \$15.00 per day.

Surgical Expense

- Covered Services: surgical procedures and postoperative care by the operating surgeon or surgeons.
- Maximum payment for one operation to be the amount shown in the surgical schedule below. The amount payable for a surgical procedure not listed will be determined on a consistent basis with the surgical schedule. The maximum amount payable for any such procedure is \$800.00.

Anesthetist Expense

- Charges not covered for anesthesia administered in non-surgical procedures.
- Maximum payment of \$100.00 for each surgical procedure.

Nursing Expense

- Benefits for care and attendance by either a graduate registered nurse or a licensed practical nurse.
- Charges not covered for nurses who are members of the patient's family or who customarily live with the patient.
- Maximum benefit of \$30.00 per day.

Blood Transfusion Expense

- Covered Services: blood or blood components; expenses incurred for blood donors.
- Charges Not Covered: laboratory tests, supplies, or blood subsequently replaced by donor.
- No maximum limit.

Prescription Drugs and Medicines Expense

- Benefits for drugs and medicines, including oxygen, prescribed by a licensed physician and administered outside of a hospital or ambulatory surgical center.
- Charges Not Covered: drugs and administration thereof while confined in a hospital or ambulatory surgical center; administration of drugs and medicines including oxygen.
- No maximum limit.

Transportation Expense

- Benefits for any person insured under this policy and one attendant for transportation by commercial aircraft, railroad, bus, or professional ambulance exclusive of air ambulance, to and from any hospital in the continental United States to receive specialized treatment.
- Conditions: transportation by the method chosen must be deemed to be medically necessary by the attending physician.
- Charges Not Covered: transportation when not deemed to be medically necessary by the attending physician; charges in excess of the current commercial rate for the mode of transportation used; transportation by charter aircraft or air ambulance.
- Maximum of six trips to and from a hospital in a twelve-month period.

EXCEPTIONS

This policy does not cover: treatment in a governmental hospital; and treatment or services for which no charge is normally made in the absence of insurance.

SURGICAL SCHEDULE

| Procedure | | Maximum Amount |
|-----------|---|-------------------|
| | ABDOMEN | |
| 49000 | Exploratory laparotomy | \$260.00 |
| 43620 | Total gastrectomy | 600.00 |
| 43630 | Partial gastrectomy, without vagotomy..... | 435.00 |
| 44140 | Partial colectomy | 445.00 |

| | | |
|-------|--|--------|
| 44150 | Total colectomy, with ileostomy | 615.00 |
| 45110 | Complete proctectomy, combined abdomino-perineal .. | 620.00 |
| 44320 | Colostomy or skin level cecostomy | 280.00 |
| 43110 | Esophagectomy | 690.00 |
| 43832 | Gastrostomy, permanent..... | 380.00 |
| 51580 | Complete cystectomy with ureterosigmoidostomy..... | 800.00 |
| 51570 | Complete cystectomy..... | 600.00 |
| | EYE | |
| 65101 | Enucleation of eye | 235.00 |
| | BRAIN | |
| 61304 | Exploratory craniectomy or bone flap craniotomy | 800.00 |
| 61510 | Excision of brain tumor..... | 800.00 |
| | BREAST | |
| 19200 | Radical mastectomy, unilateral | 440.00 |
| 19180 | Simple mastectomy, unilateral | 295.00 |
| | CHEST | |
| 32100 | Exploratory thoracotomy with biopsy | 380.00 |
| 32440 | Pneumonectomy | 690.00 |
| | EXTERNAL-GENITALIA | |
| | FEMALE | |
| 56635 | Radical vulvectomy with inguinal lymphadenectomy.... | 600.00 |
| 57521 | Biopsy of cervix | 150.00 |
| | MALE | |
| 54135 | Complete amputation of penis with lymphadenectomy | 700.00 |
| 54530 | Radical orchiectomy..... | 185.00 |

| | | |
|-------|--|--------|
| | GENITO-URINARY TRACT | |
| 50220 | Nephrectomy | 410.00 |
| 52232 | Cystourethroscopy for 0.5-2.0 cm bladder tumor | 110.00 |
| 52235 | Cystourethroscopy for 2.0-5.0 cm bladder tumor | 235.00 |
| 52240 | Cystourethroscopy for 5.0 cm and larger bladder tumor | 350.00 |
| 52601 | Transurethral resection of prostate..... | 385.00 |
| 55810 | Radical prostatectomy..... | 535.00 |
| 58150 | Total hysterectomy..... | 355.00 |
| 58210 | Total hysterectomy with radical lymphadenectomy..... | 710.00 |
| | SKIN | |
| 11601 | Trunk, arm, leg, 1/4-1/2 inch lesion..... | 35.00 |
| 11621 | Scalp, neck, hand, foot, genitalia, 1/4-1/2 inch lesion | 45.00 |
| 11641 | Face, ear, lip, nose, mucous membrane, 1/4-1/2 inch lesion .. | 60.00 |
| | THROAT | |
| 31360 | Laryngectomy, without radical neck dissection | 485.00 |
| 60240 | Total thyroidectomy..... | 385.00 |
| 60250 | Total thyroidectomy with radical neck dissection | 730.00 |

GENERAL PROVISIONS

Privilege of Exchange

If either you or your spouse should die while this policy is in force, the survivor may exchange it for an individual policy with similar benefits. Written application for the exchange must be made within 30 days from the date of

death of you or your spouse. The premium for the individual policy will be determined by: the age of the continuing insured on the effective date of this policy; the sex of the continuing insured; and the premium rates in use at the time of the exchange for individual policies issued in exchange for this policy. The individual policy will provide coverage for any dependents as defined by this policy as long as they continue to meet the definition of a dependent.

Conversion

In the event that coverage with respect to any dependent terminates in accordance with definition of dependent, or expires for reasons other than for failure to pay premiums when due, such dependent will be entitled to have issued to him or her an individual policy of cancer insurance. The converted policy will:

1. Be issued at the attained age of the dependent;
2. Be issued without evidence of insurability;
3. Be most nearly similar to this policy which is then being issued by the company; and
4. Waive any probationary periods or time limits on certain defenses to the extent they have been fulfilled under this policy.

Written application for such policy and payment of the first premium must be made within thirty-one days after termination of insurance under this policy. The converted policy, if issued, will take effect on the day following termination of coverage under this policy. Any special exclusion applicable to such dependent under this policy

will also apply to such person under any converted policy.

Consideration

The application and the payment of the required premiums are the consideration for this policy. The receipt of the first premium is hereby acknowledged.

Premium Payments

When Payable

Premiums are payable in advance beginning on the effective date. The schedule on page one shows the amounts and frequency of premium payments.

Where Payable

Premiums are to be paid to us either at one of our offices or to one of our agents. A receipt for premium payments will be furnished. If premiums are paid on a monthly basis, a premium receipt card may be furnished in lieu of an official premium receipt. Failure of an agent to call for a premium collection when due does not excuse the premium payment. In such event, premiums must be paid at one of our offices.

Frequency Of Payment

Premiums may be paid annually, semiannually, quarterly or monthly. The frequency of premium payments may be changed with our consent by filing a written request on a form satisfactory to and accepted by us. The change in

the frequency of premiums will then become effective on the next premium due date. The payment of any premium will not continue this policy in force beyond the date when the next premium becomes due.

Entire Contract; Changes

This policy with the application and attached papers is the entire contract between you and the company. No change in this policy will be effective until approved by an executive officer of the company. This approval must be noted on or attached to this policy. No agent may change this policy or waive any of its provisions.

Age Limits

The coverage provided by this policy on you will not become effective if, at your correct age, you were over sixty-four years of age on the effective date. In the event your coverage would not have become effective, our liability will be limited to a refund. Such refund must be requested by you and will be equal to all premiums paid for such coverage.

Time Limit On Certain Defenses

Misstatements In The Application

After two years from the effective date no misstatements in the application may be used to void the policy or deny any claim for expenses incurred after the two-year period.

Pre-existing Conditions

No claim for expenses incurred after two years from the effective date will be reduced or denied because a sickness or physical condition not excluded by name or specific description before the date of expenses incurred had existed before the effective date of coverage.

Grace Period

This policy has a thirty day grace period. This means that if a renewal premium is not paid on or before the due date, it may be paid during the grace period. During the grace period, the policy will stay in force.

Reinstatement

If the renewal premium is not paid before the grace period ends, the policy will lapse. Later acceptance of the premium by us or by our agent without requiring an application for reinstatement will reinstate the policy. If an application is required, you will be given a conditional receipt for the premium. If the application is approved, the policy will be reinstated as of the approval date. Lacking such approval, the policy will be reinstated on the forty-fifth day after the date of the conditional receipt unless we have previously written you of its disapproval. The reinstated policy will cover only loss that results from cancer that is manifested more than ten days after the date of reinstatement. In all other respects your rights and our rights will remain the same, subject to any provisions noted or attached to the reinstated policy.

Notice Of Claim

Written notice of claim must be given within thirty days after any covered treatment or hospitalization starts, or as soon as reasonably possible. The notice can be given to us at our home office or to one of our agents. Notice should include your name and the policy number.

Claim Forms

When we receive the notice of claim, we will send you forms for filing proof of loss. If these forms are not given to you within fifteen days, you will meet the proof of loss requirements by giving us a written statement of the nature and extent of the loss within the time limit stated in "Proofs of Loss".

Proofs Of Loss

Written proof of loss must be given to us within ninety days after the date of each loss. If it was not reasonably possible to give written proof in the time required, we will not reduce or deny the claim for this reason if the proof is filed as soon as reasonably possible. In any event, the proof required must be given no later than one year from the time specified unless you were legally incapacitated.

Time Of Payment Of Claims

Benefits provided by this policy will be paid as soon as we receive proper written proof of loss.

Physical Examination

We may examine you or your dependent(s) when reasonably necessary for our consideration of your pending claim. This will be done at our expense.

Payment Of Claims

All benefits will be paid to you, unless you direct otherwise in writing. Any benefits unpaid at your death may be paid, at our option, to your surviving spouse or your estate. If the benefits are payable to your estate or if you cannot execute a valid release, we can pay benefits up to \$1,000 to someone related to you by blood or marriage whom we consider to be entitled to the benefits. We will be discharged to the extent of any such payments made in good faith.

Legal Action

No legal action may be brought to recover on this policy within sixty days after written proof of loss has been given as required by this policy. No such action may be brought after three years from the time written proof of loss is required to be given.

Misstatement Of Age Or Sex

If your age or sex has been misstated, the benefits will be those the premium paid would have purchased at the correct age and sex. For the purpose of this policy, your age and the age of each dependent will be the age last birthday on the effective date of the policy. If the coverage to you or your dependent(s) provided by this policy

at the correct age would not have become effective or would have terminated, then our liability will be limited to a refund. Such refund must be requested by you and will be equal to the portion of the premiums paid for the period not covered by the policy and attributable to you or your dependent.

Coverage Limited To One Policy

If any person covered by this policy is also insured under another cancer policy issued by us, only one policy chosen by you will be effective. We will refund the premiums for the other policy for the period such policy was in force concurrently with the policy chosen.

Conformity With State Statutes

Any provision of this policy which, on its effective date, is in conflict with the laws of the state in which you reside on that date, is amended to conform to the minimum requirements of such laws.

LIBERTY NATIONAL

LIFE INSURANCE COMPANY

2001 Third Avenue South

Birmingham, Alabama 35233

**When you write to us, please use the
following mailing address:**

P.O. Box 2612

Birmingham, Alabama 35202

Family Cancer Policy -

Guaranteed Renewable For Life

Subject To Change In Premium Rates -

Non Participating

1986 Series
CANCER POLICY

| | | |
|---------------|----------------|-------------|
| Insured | Premium | Plan |
| Policy Number | Month Day Year | Age and Sex |
| | Effective Date | |
| Agency | District | |

Insuring Clause

We will insure you against losses due to hospital confinement and other specified expenses resulting from treatment for cancer of you. Such cancer must be first manifested thirty or more days after the effective date of this policy. Cancer is manifested when symptoms exist which would cause an ordinarily prudent person to seek diagnosis, care, or treatment. Your coverage continues while this policy is in force.

Right to Examine Policy

Please examine your policy carefully. Within 10 days after this policy is first received, it may be returned to us or to the agent through whom it was purchased. If returned during this period, the policy will be as though it had never been issued. Any premiums paid will be returned.

Guaranteed Renewable; Premiums Subject to Change

Your policy is guaranteed renewable for life. You may renew this contract by paying each renewal premium as it falls due or during the grace period. We cannot cancel or refuse to renew your policy. We reserve the right to change premium rates. A change in the rates will apply to all policies of this form issued by us and in force in the

state where you live. If we change the rates, your premium will be determined by your age on the effective date of this policy and the year of issue of this policy. If we change the rates, we will write you 31 days or more before the change at the address shown in our records. We will not restrict or limit your policy in any other way while it is in force.

Signed for Liberty National Life Insurance Company
as of its effective date.

/s/ William C. Barclift
Secretary

/s/ John S.P. Samford
President

Please Read:

The basis for this policy is the information on the application. Incorrect information in the application could void the policy or cause an otherwise valid claim to be denied. Advise us immediately if any information on the application is wrong or if any past medical history has been left out. No agent may change this policy or waive any of its provisions.

Cancer Policy

Benefits for loss due to hospital confinement and for other specified expenses resulting from treatment for cancer of the insured to the extent herein limited and provided.

Guaranteed Renewable for Life –
Subject to Change in Premium Rates
Initial Premiums as Shown on Page 1 –
Nonparticipating

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Application

(Attached to the Policy)

DEFINITIONS

Ambulatory Surgical Center – A facility which meets all of the following requirements:

1. Provides elective surgical care as its primary purpose;
2. Admits and discharges patients within the same working day; and
3. Is not part of the hospital.

The term "ambulatory surgical center" does not include:

1. A facility whose primary purpose is to provide therapeutic abortions;
2. An office maintained by a physician for the practice of medicine; or
3. An office maintained for the practice of dentistry.

Cancer – Leukemia, Hodgkin's disease, or any form of malignant growth positively diagnosed as cancer (malignant neoplasms) by a legally licensed doctor of medicine

certified by the American Board of Pathology or a certified Osteopathic Pathologist other than yourself. Such diagnosis must be based on a bioptic examination.

Disability and Disabled – The inability of a covered person to perform the duties of his or her gainful occupation as a result of cancer manifested after the 30 day waiting period. Any subsequent disability shall be regarded as a continuation of a previous disability and shall apply to the lifetime maximum weeks of disability.

Elimination Period – A period of 14 days at the beginning of disability for which no benefit is payable. If a covered person returns to his or her gainful occupation during that time and then becomes disabled again, the prior period of disability will count towards the elimination period.

Hospital – A Hospital:

1. Is licensed and operates pursuant to law;
2. Operates primarily for the care and treatment of sick or injured persons as inpatients for a charge;
3. Provides 24-hour nursing service under the supervision of a registered nurse;
4. Is supervised by a staff of licensed physicians; and
5. Has medical, diagnostic and major surgical facilities or has access to such facilities.

The term "hospital" does not include:

1. Convalescent, rest, or nursing facilities;
2. Facilities for the aged, alcoholics and drug addicts.

Hospital Confinement – Continuous confinement in a hospital for more than 12 hours upon the advice and

recommendation of a physician for treatment of cancer manifested after the waiting period. If less than 30 days separate periods of confinement, the second and subsequent periods will be considered a continuation of the first period.

Skin Cancer – Any form of malignant growth positively diagnosed as cancer (malignant neoplasms) which is confined to the epidermis, dermis (corium) and/or subcutaneous tissue. Such diagnosis must be based on a bioptic examination performed by a recognized pathologist.

Surgical Procedure – Means any procedure, unless otherwise excluded in this policy, which is listed in the Surgery Section of the latest edition of Current Procedural Terminology, as published by the American Medical Association. Two or more procedures performed through the same incision will be considered as one surgical procedure. The amount payable will be equal to the largest of the amounts for the respective procedures.

We, Our, Us – Liberty National Life Insurance Company.

You, Your – The person named as the insured under this policy.

BENEFITS

We will pay benefits as described below for treatment of cancer first manifested as provided in the provision entitled "Insuring Clause". Expenses for the treatment of cancer will consist of the actual charges by a hospital, physician, or other provider subject to the limitations

contained herein. No benefits will be paid in excess of the reasonable and customary charges made by the provider of services or treatments.

First Occurrence Benefit

- When cancer (except skin cancer) is manifested after the 30-day waiting period and we receive diagnosis of cancer as set out in the definition of cancer on page 4, we will pay you a benefit of \$2,000. This benefit is payable only once during the lifetime of a covered person, and it will only be paid upon the first diagnosis of cancer (except skin cancer). The First Occurrence Benefit is not payable for diagnosis of skin cancer.

Hospital Confinement Benefit

- Hospitalization for ninety days or less:
During any continuous period of ninety days or less of hospital confinement for treatment cancer, we will pay a benefit of \$100 per day.
- Hospitalization for more than ninety days:
During any continuous period of more than ninety days of hospital confinement for treatment of cancer, we will pay a benefit of \$100 per day for the first ninety days. Beginning with the ninety-first day of such continuous hospital confinement, we will pay a benefit of \$250 per day.
- If you are confined in a U.S. Government hospital for the treatment of cancer, the hospital confinement benefit is payable for such confinement.
- No lifetime limit.

Outpatient Surgery Benefit

- We will pay a benefit of up to \$100 for each day you have a surgical procedure as treatment for cancer as an outpatient in a hospital or ambulatory surgical center. This benefit includes charges by the facility. Physicians' charges will be covered under the Surgical Benefit.
- No lifetime limit.

Radiation and Chemotherapy Benefit

- We will pay a benefit of up to \$500 for each day you receive radiation or chemotherapy cancer treatments which are administered directly by a doctor or a nurse. This benefit includes charges by the hospital and physician for radiation therapy, cobalt therapy, and chemotherapy. Benefits are payable under this paragraph only for the days in which radioactive or chemical treatments are administered or surgically implanted by a doctor or nurse. The surgical implantation of a device to regulate chemical treatments will be considered as a surgical procedure, and a benefit will be payable under the Surgical Benefit. The charge for such device will be payable subject to the daily maximum of \$500.
- No lifetime limit.

Prescription Chemotherapy Drug Benefit

- We will pay a benefit of up to \$8,000 in any calendar year for the expense of prescription antineoplastic drugs. Benefits are not payable for the mere routine ingestion of chemotherapy as may be directed in a prescription

regardless of where the oral chemotherapy is administered.

- No lifetime limit.

Blood Transfusion Benefit

- We will pay the amount you are charged for blood or blood components, administration, and processing of blood or plasma when you have a blood transfusion for the treatment of cancer. We will not pay for laboratory tests, supplies, or blood subsequently replaced by donors.
- No lifetime limit.

Transportation Benefit

- We will pay the amount you are charged for a covered person and one attendant for transportation by commercial aircraft, railroad, bus, or professional ambulance, exclusive of air ambulance, to and from any hospital or clinic in the continental United States to receive specialized treatment for cancer. We will reimburse you fifteen cents per mile if your destination is more than 100 miles away (one-way) and you take your personal car. This Transportation benefit is payable only if you travel to another city on the advice of your physician because similar services are not available in the city where you live. Transportation by the method chosen must be deemed to be medically necessary by the attending physician. Charges in excess of the current commercial rate for the mode of transportation used and transportation by charter aircraft or air ambulance are not covered.

- Maximum of six trips to and from a hospital or clinic in a twelve-month period.

Surgical Benefit

- We will pay you for surgical procedures for the treatment of cancer by the operating surgeon or surgeons.
- The maximum payment for one operation is the amount shown in the surgical schedule below. The amount payable for a surgical procedure not listed will be determined on a consistent basis with the surgical schedule. The maximum amount payable for any such procedure is \$1,000.
- No lifetime limit.

Anesthetist Benefit

- We will pay for the administration of anesthesia when a surgical procedure is performed. The maximum payment is 25% of the amount payable for the surgery.
- No lifetime limit.

Attending Physician Benefit

- We will pay a benefit of up to \$25 per day for charges you receive from your attending physician for the treatment of cancer. This benefit is payable for one physician per day. This benefit is payable whether or not the covered person is confined in a hospital. Charges by the physician for surgery, radiation, and chemotherapy are not covered under this paragraph.
- No lifetime limit.

Private Duty Nursing Benefit

- We will pay a benefit of up to \$50 for each day for care and attendance in the treatment of cancer by either a graduate registered nurse or a licensed practical nurse recommended by the attending physician. This benefit is payable when services are performed either in a hospital or in the patient's home. This benefit does not cover: general nursing care provided by hospitals, nursing homes, or rehabilitation centers; or nurses who are members of the patient's family or who customarily live with the patient.
- No lifetime limit.

Prosthesis Benefit

- We will pay a benefit of up to \$500 for a prosthesis used as a result of cancer. Any implantation of a prosthesis is considered a surgical procedure and is not covered under this paragraph.
- Lifetime limit of two devices.

Hospice Benefit

- We will pay a benefit of up to \$50 per day for charges you receive as a result of: a visit from a representative of a hospice; using the services of a hospital or a U.S. Government hospital on an out-patient basis under the direction of a hospice; or visiting a hospice for treatment or services. This benefit is payable only if the attending physician determines that cancer treatments are no longer of benefit to you, and you are expected to live

six months or less. We will not pay this benefit if you are confined to a hospital or a U.S. Government hospital.

- No lifetime limit.

Income Replacement Benefit

- We will pay a benefit of \$100 for each week a covered person is disabled as a result of cancer manifested after the 30 day waiting period. Such benefit will begin after an elimination period of 14 days. Benefits will continue for each completed week of disability. Only covered persons who are gainfully employed are eligible for this benefit.
- Benefits cease after a lifetime maximum of 26 completed weeks of disability.

Dread Disease Benefit

- We will pay the Hospital Confinement Benefit when hospitalized for the treatment of the following specified diseases:

Cystic Fibrosis
 Diphtheria
 Encephalitis
 Lou Gehrig's disease
 Meningitis
 Multiple Sclerosis
 Muscular Dystrophy
 Osteomyelitis
 Poliomyelitis
 Rabies
 Scarlet Fever
 Sickle-Cell Anemia
 Smallpox
 Tetanus
 Tuberculosis

Tularemia
Typhoid Fever

Only the Hospital Confinement Benefit will be payable for the above diseases.

LIMITATIONS AND EXCLUSIONS

This policy contains a thirty-day waiting period. This means that no benefits are payable to anyone who has cancer or one of the specified dread diseases manifested before the policy has been in force thirty days from the effective date as shown on page one. If you have one of the specified dread diseases manifested before the effective date or during the waiting period, coverage for such specified disease will apply only to expenses incurred after two years from the effective date. If you have cancer manifested during the waiting period, coverage for that cancer will apply only to expenses incurred after two years from the effective date of the policy. If you have cancer manifested during the waiting period, no First Occurrence Benefit will be paid.

If you are confined in a U.S. Government hospital for the treatment of cancer, we will pay the Hospital Confinement Benefit and, if applicable, the First Occurrence Benefit. No benefits are payable under the remaining benefit provisions for such hospital confinement.

If you are confined in a hospital for the treatment of a specified dread disease we will pay the Hospital Confinement Benefit. No benefits are payable under the remaining benefit provisions for such hospital confinement.

This policy does not cover:

1. Treatment for any disease or sickness or incapacity other than cancer or one of the specified dread diseases;
2. Treatment or services covered under any governmental plan (except Medicaid) or for which no charge is normally made in the absence of insurance except for U.S. Government hospitals;
3. Treatment or services outside the continental United States;
4. Treatments which are not accepted or approved by the American Medical Association as an effective treatment for cancer; or
5. Drugs or substances which are not approved by the Federal Drug Administration for use in the treatment of cancer.

SURGICAL SCHEDULE

| Procedure | Maximum Amount |
|--|----------------|
| ABDOMEN | |
| 51590 Complete cystectomy, with ureteroileal conduit, including bowel anastomosis. . | \$1000.00 |
| 51570 Complete Cystectomy | 590.00 |
| 49000 Exploratory laparotomy | 260.00 |
| 45378 Colonoscopy, fiberoptic, beyond splenic flexure | 140.00 |

| | | |
|-------|--|--------|
| 45110 | Complete proctectomy, combined abdomino-perineal | 620.00 |
| 44320 | Colostomy or skin level cecostomy | 280.00 |
| 44150 | Total colectomy, with ileostomy..... | 615.00 |
| 44140 | Partial colectomy..... | 445.00 |
| 43832 | Gastrostomy, permanent..... | 340.00 |
| 43630 | Partial gastrectomy, without vagotomy.... | 440.00 |
| 43620 | Partial gastrectomy..... | 600.00 |
| 43235 | Upper gastrointestinal endoscopy..... | 100.00 |
| 43110 | Esophagectomy..... | 760.00 |

BONE

| | | |
|-------|---|-------|
| 20220 | Biopsy of bone, trocar, superficial | 30.00 |
|-------|---|-------|

EYE

| | | |
|-------|--------------------------|--------|
| 65101 | Enucleation of eye | 300.00 |
|-------|--------------------------|--------|

BRAIN

| | | |
|-------|--|--------|
| 61510 | Excision of brain tumor | 835.00 |
| 61304 | Exploratory craniectomy or bone flap craniotomy..... | 800.00 |

BREAST

| | | |
|-------|--|--------|
| 19200 | Radical mastectomy, unilateral..... | 420.00 |
| 19184 | Mastectomy, subcutaneous, unilateral, with immediate prosthetic implant..... | 480.00 |
| 19180 | Simple mastectomy, unilateral | 280.00 |
| 19101 | Biopsy of breast, incisional | 100.00 |

CHEST

| | | |
|-------|---|--------|
| 31620 | Bronchoscopy, diagnostic, rigid bronchoscope | 100.00 |
| 31360 | Total laryngectomy, without radical neck dissection | 600.00 |
| 32440 | Pneumonectomy..... | 690.00 |
| 32100 | Exploratory thoracotomy with biopsy.... | 400.00 |

EXTERNAL-GENITALIA FEMALE

| | | |
|-------|--|--------|
| 58120 | Dilation and curettage..... | 100.00 |
| 57520 | Biopsy of cervix..... | 120.00 |
| 56630 | Radical vulvectomy, without skin graft ... | 420.00 |

MALE

| | | |
|-------|-----------------------------------|--------|
| 54530 | Complete orchiectomy..... | 185.00 |
| 54125 | Complete amputation of penis..... | 340.00 |

GENITO-URINARY TRACT

| | | |
|-------|--|--------|
| 58210 | Total hysterectomy with radical lymphadenectomy..... | 700.00 |
| 58150 | Total hysterectomy | 360.00 |
| 55810 | Radical prostatectomy | 525.00 |
| 52601 | Transurethral resection of prostate | 385.00 |
| 52240 | Cystourethroscopy for 5.0 cm. and larger bladder tumor(s)..... | 340.00 |
| 52235 | Cystourethroscopy for 2.0-5.0 cm. bladder tumor(s) | 240.00 |

| | | |
|-------|--|--------|
| 52232 | Cystourethroscopy for 0.5-2.0 cm. bladder tumor(s) | 120.00 |
| 50220 | Nephrectomy, including partial ureterectomy..... | 405.00 |

LYMPH NODES

| | | |
|-------|---|-------|
| 38510 | Biopsy or excision of deep cervical node .. | 80.00 |
|-------|---|-------|

SKIN

| | | |
|-------|--|-------|
| 11641 | Excision on face, ears, eyelids, nose, lips, 0.5-1.0 cm. lesion..... | 50.00 |
| 11621 | Excision on scalp, neck, hands, feet, genitalia, 0.5-1.0 cm. lesion..... | 45.00 |
| 11601 | Excision on trunk, arms, legs, 0.5-1.0 cm. lesion..... | 35.00 |

SPINE AND SPINAL CORD

| | | |
|-------|--|-------|
| 62270 | Spinal puncture, lumbar, diagnostic..... | 30.00 |
|-------|--|-------|

THROAT

| | | |
|-------|--|--------|
| 60252 | Thyroidectomy, total or subtotal, with limited neck dissection | 560.00 |
| 60240 | Total thyroidectomy | 390.00 |

GENERAL PROVISIONS

Consideration

The application and the payment of the required premiums are the consideration for the policy. The receipt of the first premium is hereby acknowledged.

Premium Payments

When Payable

Premiums are payable in advance beginning on the effective date. The schedule on page one shows the amount of premium for the mode of payment you applied for.

Where Payable

Premiums are to be paid to us either at one of our offices or to one of our agents. If premiums are paid on a monthly basis, a premium receipt card may be furnished in lieu of an official premium receipt. Failure of an agent to call for a premium collection when due does not excuse the premium payment. In such event, premiums must be paid at one of our offices.

Frequency and Mode of Payment

Premiums may be paid annually, semiannually, quarterly, or monthly. The frequency of premium payments may be changed with our consent by filing a written request on a form satisfactory to and accepted by us. The change will then become effective on the next premium due date. The payment of any premium shall not continue this policy in force beyond the date when the next premium becomes due.

You may have elected to make your premium payment under a special payment mode such as Bank Budget, Government Allotment, Weekly Deduction, Credit Union or Payroll Deduction, if such a mode was available. Payment under one of these modes shall cease if:

- authorization for payment under such mode is terminated or withdrawn; or if
- a check drawn and presented for payment under the Bank Budget mode is not honored.

If payments cease under a special payment mode, you should select a new payment mode. Otherwise we will bill you by premium notice using the payment frequency we select. In either instance the premium shall change from that shown on page one. The new premium shall be what we would have charged had the policy been issued on the new payment mode. It will be due as of the end of the period through which premiums were paid on the special payment mode.

Entire Contract; Changes

This policy with the application and attached papers is the entire contract between you and the Company. No change in this policy will be effective until approved by an officer of the Company. This approval must be noted on or attached to this policy. No agent may change this policy or waive any of its provisions.

Age Limits

Coverage provided by this policy on you will not become effective if you were over sixty-four years of age on the effective date. In the event coverage would not have become effective, our liability will be limited to a refund. Such refund must be requested by you and will be equal to all premiums paid for such coverage.

Time Limit On Certain Defenses

Misstatements In the Application

After two years from the date of issue, no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

No claim for expenses incurred after two years from the effective date will be reduced or denied because a sickness or physical condition not excluded by name or specific description before the date of expenses incurred had existed before the effective date of coverage.

Grace Period

This policy has a thirty-one day grace period. This means that if a renewal premium is not paid on or before the due date, it may be paid during the grace period. During the grace period, the policy will stay in force.

Reinstatement

If the renewal premium is not paid before the grace period ends, the policy will lapse. Later acceptance of the premium by us or by our agent without requiring an application for reinstatement will reinstate the policy. If an application is required, you will be given a conditional receipt for the premium. If the application is approved, the policy will be reinstated as of the approval date. Lacking such approval, the policy will be reinstated on

the forty-fifth day after the date of the conditional receipt unless we have previously written you of its disapproval. The reinstated policy will cover only loss resulting from cancer that is manifested more than ten days after the date of reinstatement. In all other respects your rights and our rights will remain the same, subject to any provision noted or attached to the reinstated policy.

Notice of Claim

Written notice of claim must be given within thirty days after any covered treatment or hospitalization starts, or as soon as reasonably possible. The notice can be given to us at our home office or to one of our agents. Notice should include your name and the policy number.

Claim Forms

When we receive a notice of claim, we will send you forms for filing proof of loss. If you do not receive these forms within fifteen days, you will meet the proof of loss requirements by giving us a written statement of the nature and extent of the loss within the time limit stated in "Proofs of Loss."

Proofs of Loss

Written proof of loss must be given to us within ninety days after the date of each loss. If it was not reasonably possible to give written proof in the time required, we will not reduce or deny the claim for this reason if the proof is filed as soon as reasonably possible. However, the proof required must be given no later than one year

from the time specified unless you were legally incapacitated.

Time of Payment of Claims

Benefits provided by this policy will be paid as soon as we receive proper written proof of loss.

Payment Of Claims

If you are 18 years of age or older, all benefits will be paid to you unless you direct otherwise in writing. If you are less than 18 years of age, such benefits will be paid to the person having control of this policy. Any benefit unpaid at your death may be paid at our option, to your surviving spouse or your estate. If the benefits are payable to your estate or if you cannot execute a valid release, we can pay benefits up to \$3,000 to someone related to you by blood or marriage whom we consider to be entitled to such benefits. We will be discharged to the extent of any such payments made in good faith.

Physical Examination

We may examine you when reasonably necessary for our consideration of your pending claim. This will be done at our expense.

Legal Action

No legal action may be brought to recover on this policy within sixty days after written proof of loss has been given as required by this policy. No such action may be

brought after three years from the time written proof of loss is required to be given.

Misstatement Of Age

If your age has been misstated the benefits provided by this policy will be those the premium would have purchased at the correct age. For the purpose of this policy, your age will be the age [sic] last birthday on the effective date of coverage. If your correct age is such that this policy would not have become effective or would have terminated, then our liability will be limited to a refund. Such refund must be requested by you and will be equal to the portion of the premiums paid for the period not covered by this policy and attributable to such covered person.

Coverage Limited To One Policy

If you are also insured under another cancer policy issued by us, only one policy chosen by you will be effective. We will refund the premiums for the other policy for the period such policy was in force concurrently with the policy chosen.

Conformity With State Statutes

Any provision of this policy which, on its effective date, is in conflict with the laws of the state in which you reside on that date, is amended to conform to the minimum requirements of such laws.

Assignment

You may assign this policy. However, we will not be bound by any assignment unless it is in writing and acknowledged by us at our home office. We will not be responsible for the validity of any assignment.

**LIBERTY NATIONAL
LIFE INSURANCE COMPANY
2001 Third Avenue South
Birmingham, Alabama 35233**

**When you write to us, please use the
following mailing address:**

**P.O. Box 2612
Birmingham, Alabama 35202**

**CANCER POLICY - GUARANTEED
RENEWABLE FOR LIFE**

**Subject To Change In Premium Rates -
Nonparticipating**

**1990 Series
CANCER POLICY**

| | | |
|-------------------|--------------------|----------|
| Insured | Premium | Plan |
| HARRIET C HALL | \$16.00 MONTHLY | 5GR |
| 31396215 | 47 F | 59 |
| Policy Number | Age and Sex | Agency |
| 08 01 91 | \$172.00 | 013 |
| Month Day Year | Annual | District |
| Effective Date | Premium | |

Insuring Clause

We will insure you against losses due to hospital confinement and other specified expenses resulting from treatment for cancer of you. Such cancer must be first manifested thirty or more days after the effective date of this policy. Cancer is manifested when symptoms exist which would cause an ordinarily prudent person to seek diagnosis, care, or treatment. Your coverage continues while this policy is in force.

Right to Examine Policy

Please examine your policy carefully. Within 10 days after this policy is first received, it may be returned to us or to the agent through whom it was purchased. If returned during this period, the policy will be as though it had never been issued. Any premiums paid will be returned.

Guaranteed Renewable; Premiums Subject to Change

Your policy is guaranteed renewable for life. You may renew this contract by paying each renewal premium as it falls due or during the grace period. We cannot cancel or refuse to renew your policy. We reserve the right to change premium rates. A change in the rates will apply to all policies of this form issued by us and in force in the state where you live. If we change the rates, your premium will be determined by your age on the effective date of this policy and the year of issue of this policy. If we change the rates, we will write you 31 days or more before the change at the address shown in our records. We will not restrict or limit your policy in any other way while it is in force.

Signed for Liberty National Life Insurance Company
as of its effective date.

/s/ William E. Barclift
Secretary

/s/ CB Hudson
President

Please Read:

The basis for this policy is the information on the application. Incorrect information in the application could void the policy or cause an otherwise valid claim to be denied. Advise us immediately if any information on the application is wrong or if any past medical history has been left out. No agent may change this policy or waive any of its provisions.

Cancer Policy

Benefits for loss due to hospital confinement and for other specified expenses resulting from treatment for cancer of the insured to the extent herein limited and provided.

Guaranteed Renewable for Life – Subject to
Change in Premium Rates
Initial Premiums as Shown on Page
1 – Nonparticipating

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SURGICAL SCHEDULE

| Procedure | Maximum Amount |
|---|-------------------|
| ABDOMEN | |
| 51590 Complete cystectomy, with ureteroileal conduit, including bowel anastomosis.. | \$1380.00 |
| 51570 Complete Cystectomy | .995.00 |
| 49000 Exploratory laparotomy | .415.00 |
| 45378 Colonoscopy, fiberoptic, beyond splenic flexure..... | .205.00 |
| 45110 Complete proctectomy, combined abdomino-perineal | .940.00 |
| 44320 Colostomy or skin level cecostomy | .440.00 |
| 44150 Total colectomy, with ileostomy..... | .955.00 |
| 44140 Partial colectomy..... | .705.00 |
| 43832 Gastrostomy, permanent..... | .525.00 |
| 43630 Partial gastrectomy, without vagotomy.... | .710.00 |
| 43620 Partial gastrectomy..... | .890.00 |
| 43235 Upper gastrointestinal endoscopy..... | .140.00 |
| 43110 Esophagectomy..... | 1085.00 |
| BONE | |
| 20220 Biopsy of bone, trocar, superficial | .40.00 |
| EYE | |
| 65101 Enucleation of eye | .470.00 |

BRAIN

| | | |
|-------|--|---------|
| 61510 | Excision of brain tumor | 1495.00 |
| 61520 | Craniectomy for excision of brain tumor, with cerebellopontine angle tumor..... | 2000.00 |
| 61304 | Exploratory craniectomy or bone flap cra- niotomy..... | 1115.00 |

BREAST

| | | |
|-------|--|--------|
| 19200 | Radical mastectomy, unilateral..... | 655.00 |
| 19182 | Mastectomy, subcutaneous, unilateral | 395.00 |
| 19340 | With immediate prosthetic implant | 600.00 |
| 19180 | Simple mastectomy, unilateral | 405.00 |
| 19101 | Biopsy of breast, incisional | 105.00 |

CHEST

| | | |
|-------|--|---------|
| 31620 | Bronchoscopy, diagnostic, rigid broncho- scope | 140.00 |
| 31360 | Total laryngectomy, without radical neck dissection | 1035.00 |
| 32440 | Pneumonectomy..... | 1010.00 |
| 32100 | Exploratory thoracotomy with biopsy..... | 620.00 |

EXTERNAL-GENITALIA FEMALE

| | | |
|-------|--|--------|
| 58120 | Dilation and curettage..... | 170.00 |
| 57520 | Biopsy of cervix..... | 210.00 |
| 56630 | Radical vulvectomy, without skin graft ... | 825.00 |

MALE

| | | |
|-------|-----------------------------------|--------|
| 54530 | Complete orchiectomy..... | 295.00 |
| 54125 | Complete amputation of penis..... | 575.00 |

GENITO-URINARY TRACT

| | | |
|-------|--|---------|
| 58210 | Total hysterectomy with radical lymphadenectomy..... | 1670.00 |
| 58150 | Total hysterectomy | 620.00 |
| 55810 | Radical prostatectomy | 760.00 |
| 52601 | Transurethral resection of prostate..... | 595.00 |
| 52240 | Cystourethroscopy for 5.0 cm. and larger bladder tumor(s) | 495.00 |
| 52235 | Cystourethroscopy for 2.0-5.0 cm. bladder tumor(s) | 355.00 |
| 52234 | Cystourethroscopy for 0.5-2.0 cm. bladder tumor(s) | 175.00 |
| 50220 | Nephrectomy, including partial ureterec- tomy..... | 650.00 |

LYMPH NODES

| | | |
|-------|--|--------|
| 38510 | Biopsy or excision of deep cervical node ... | 145.00 |
|-------|--|--------|

SKIN

| | | |
|-------|---|-------|
| 11641 | Excision on face, ears, eyelids, nose, lips, 0.5-1.0 cm. lesion..... | 65.00 |
| 11621 | Excision on scalp, neck, hands, feet, geni- talia, 0.5-1.0 cm. lesion..... | 55.00 |
| 11601 | Excision on trunk, arms, legs, 0.5-1.0 cm. lesion..... | 45.00 |

SPINE AND SPINAL CORD

62270 Spinal puncture, lumbar, diagnostic.....40.00

THROAT

60252 Thyroidectomy, total or subtotal, with limited neck dissection945.00

60254 Thyroidectomy with radical neck dissection..... 1265.00

DEFINITIONS

Ambulatory Surgical Center – A facility which meets all of the following requirements: provides elective surgical care as its primary purpose; admits and discharges patients within the same working day; and is not part of the hospital. The term “ambulatory surgical center” does not include: a facility whose primary purpose is to provide therapeutic abortions; an office maintained by a physician for the practice of medicine; or an office maintained for the practice of dentistry.

Cancer – Leukemia, Hodgkin’s disease, or any form of malignant growth positively diagnosed as cancer (malignant neoplasms) by a legally licensed doctor of medicine certified by the American Board of Pathology or a certified Osteopathic Pathologist other than yourself. Such diagnosis must be based on a bioptic examination.

Disability and Disabled – The inability of a covered person to perform the duties of his or her gainful occupation as a result of cancer manifested after the 30 day waiting period. Any subsequent disability shall be regarded as a continuation of a previous disability and shall apply to the lifetime maximum weeks of disability.

Elimination Period – A period of 14 days at the beginning of disability for which no benefit is payable. If a covered person returns to his or her gainful occupation during that time and then becomes disabled again, the prior period of disability will count towards the elimination period.

Hospital – A Hospital: is licensed and operates pursuant to law; operates primarily for the care and treatment of sick or injured persons as inpatients for a charge; provides 24-hour nursing service under the supervision of a registered nurse; is supervised by a staff of licensed physicians; and has medical, diagnostic and major surgical facilities or has access to such facilities. The term “hospital” does not include: convalescent, rest, or nursing facilities; facilities for the aged, alcoholics and drug addicts.

Hospital Confinement – Continuous confinement in a hospital for more than 12 hours upon the advice and recommendation of a physician for treatment of cancer manifested after the waiting period. If less than 30 days separate periods of confinement, the second and subsequent periods will be considered a continuation of the first period.

Skin Cancer – Any form of malignant growth positively diagnosed as cancer (malignant neoplasms) which is confined to the epidermis, dermis (corium) and/or subcutaneous tissue. Such diagnosis must be based on a bioptic examination performed by a recognized pathologist.

Surgical Procedure – Means any procedure, unless otherwise excluded in this policy, which is listed in the Surgery

Section of the latest edition of Current Procedural Terminology, as published by the American Medical Association. Two or more procedures performed through the same incision will be considered as one surgical procedure. The amount payable will be equal to the largest of the amounts for the respective procedures.

We, Our, Us – Liberty National Life Insurance Company.

You, Your Covered Person – The person named as the insured under this policy.

BENEFITS

We will pay benefits as described below for treatment of cancer first manifested as provided in the provision entitled "Insuring Clause". Expenses for the treatment of cancer will consist of the actual charges by a hospital, physician, or other provider subject to the limitations contained herein. No benefits will be paid in excess of the reasonable and customary charges made by the provider of services or treatments.

First Occurrence Benefit. When cancer (except skin cancer) is manifested after the 30-day waiting period and we receive diagnosis of cancer as set out in the definition of cancer on page 3, we will pay you a benefit of \$2,250. This benefit is payable only once during the lifetime of a covered person, and it will only be paid upon the first diagnosis of cancer (except skin cancer). The First Occurrence Benefit is not payable for diagnosis of skin cancer.

Hospital Confinement Benefit. During any continuous period of ninety days or less of hospital confinement for treatment of cancer, we will pay a benefit of \$150 per day.

During any continuous period of more than ninety days of hospital confinement for treatment of cancer, we will pay a benefit of \$150 per day for the first ninety days. Beginning with the ninety-first day of such continuous hospital confinement, we will pay a benefit of \$400 per day. If you are confined in a U.S. Government hospital for the treatment of cancer, the hospital confinement benefit is payable for such confinement. No lifetime limit.

Outpatient Surgery Benefit. We will pay a benefit of up to \$150 for each day you have a surgical procedure as treatment for cancer as an outpatient in a hospital or ambulatory surgical center. This benefit includes charges by the facility. Physicians' charges will be covered under the Surgical Benefit. No lifetime limit.

Radiation and Chemotherapy Benefit. We will pay a benefit of up to \$500 per day for radiation therapy, chemotherapy drugs and the professional administration thereof. This benefit does not include charges for laboratory tests, diagnostic x-rays or other diagnostic tests related to such treatment. Benefits are payable under this paragraph only for the days in which antineoplastic radioactive or chemical treatments are administered or surgically implanted by a doctor or nurse. The surgical implantation of a device to regulate chemical treatments will be considered as a surgical procedure, and a benefit will be payable under the Surgical Benefit. The charge for such device will be payable subject to the daily maximum of \$500. No lifetime limit.

Prescription Chemotherapy Drug Benefit. We will pay a benefit of up to \$10,000 in any calendar year for the

expense of prescription anti-neoplastic drugs. No lifetime limit.

New or Experimental Treatment Benefit. We will cover new or experimental treatment for cancer under the regular schedule of benefits, provided the treatment is administered in the continental United States by a licensed physician and you incur a charge for such treatment.

Blood Transfusion Benefit. We will pay the amount you are charged for blood or blood components, administration, and processing of blood or plasma when you have a blood transfusion for the treatment of cancer. We will not pay for laboratory tests, supplies, or blood subsequently replaced by donors. No lifetime limit.

Transportation Benefit. We will pay the amount you are charged for a covered person and one attendant for transportation by commercial aircraft, railroad, bus, or professional ambulance, exclusive of air ambulance, to and from any hospital or clinic in the continental United States to receive specialized treatment for cancer. We will reimburse you twenty-five cents per mile if your destination is more than 100 miles away (one-way) and you take your personal car. This Transportation Benefit is payable only if you travel to another city on the advice of your physician because similar services are not available in the city where you live. Transportation by the method chosen must be deemed to be medically necessary by the attending physician. Charges in excess of the current commercial rate for the mode of transportation used and transportation by charter aircraft or air ambulance are not covered. Maximum of six trips to and from a hospital or clinic in a twelve-month period.

Surgical Benefit. We will pay you for surgical procedures for the treatment of cancer by the operating surgeon or surgeons. The maximum payment for one operation is the amount shown in the surgical schedule on page 2. The amount payable for a surgical procedure not listed will be determined on a consistent basis with the surgical schedule. The maximum amount payable for any such procedure is \$2,000. No lifetime limit.

Anesthetist Benefit. We will pay for the administration of anesthesia when a surgical procedure is performed. The maximum payment is 25% of the amount payable for the surgery. No lifetime limit.

Attending Physician Benefit. We will pay a benefit of up to \$35 per day for charges you receive from your attending physician for the treatment of cancer. This benefit is payable for one physician per day. This benefit is payable whether or not the covered person is confined in a hospital. Charges by the physician for surgery, radiation, chemotherapy and an office visit for chemotherapy are not covered under this paragraph. No lifetime limit.

Private Duty Nursing Benefit. We will pay a benefit of up to \$75 for each day of care and attendance in the treatment of cancer by either a graduate registered nurse or a licensed practical nurse recommended by the attending physician. This benefit is payable when services are performed either in a hospital or in the patient's home. This benefit does not cover: general nursing care provided by hospitals, nursing homes, or rehabilitation centers; or nursing provided by a hospice; or nurses who are members of the patient's family or who customarily live with the patient. No lifetime limit.

Prosthesis Benefit. We will pay a benefit of up to \$750 for a prosthesis used as a result of cancer. Any implantation of a prosthesis is considered a surgical procedure and is not covered under this paragraph. Lifetime limit of two devices.

Hospice Benefit. We will pay a benefit of up to \$75 per day for charges you receive as a result of: a visit from a representative of a hospice; using the services of a hospital or a U.S. Government hospital on an out-patient basis under the direction of a hospice; or visiting a hospice for treatment or services. This benefit is payable only if the attending physician determines that cancer treatments are no longer of benefit to you, and you are expected to live six months or less. We will not pay this benefit if you are confined to a hospital or a U.S. Government hospital. No lifetime limit.

Income Replacement Benefit. We will pay a benefit of \$100 for each week a covered person is disabled as a result of cancer manifested after the 30 day waiting period. Such benefit will begin after an elimination period of 14 days. Benefits will continue for each completed week of disability. Only covered persons who are gainfully employed are eligible for this benefit. Benefits cease after a lifetime maximum of 26 completed weeks of disability.

Dread Disease Benefit. We will pay the Hospital Confinement Benefit when hospitalized for the treatment of the following specified diseases:

Cystic Fibrosis
Diphtheria
Encephalitis

Rabies
Scarlet Fever
Sickle-Cell Anemia

Lou Gehrig's disease
Meningitis
Multiple Sclerosis
Muscular Dystrophy
Osteomyelitis
Poliomyelitis

Smallpox
Tetanus
Tuberculosis
Tularemia
Typhoid Fever

Only the Hospital Confinement Benefit will be payable for the above diseases.

LIMITATIONS AND EXCLUSIONS

This policy contains a thirty-day waiting period. If you have cancer manifested during the waiting period, coverage for that cancer will apply only to expenses incurred after two years from the effective date of the policy. If you have cancer manifested during the waiting period, no First Occurrence Benefit will be paid. No benefits are payable to anyone who has cancer manifested before the effective date of this policy as shown on page one.

If you have one of the specified dread diseases manifested before the effective date or during the waiting period, coverage for such specified disease will apply only to expenses incurred after two years from the effective date.

If you are confined in a U.S. Government hospital for the treatment of cancer, we will pay the Hospital Confinement Benefit and, if applicable, the First Occurrence Benefit. No benefits are payable under the remaining benefit provisions for such hospital confinement.

If you are confined in a hospital for the treatment of a specified dread disease we will pay the Hospital Confinement Benefit. No benefits are payable under the remaining benefit provisions for such hospital confinement.

This policy does not cover: treatment for any disease or sickness or incapacity other than cancer or one of the specified dread diseases; treatment or services for which no charge is normally made in the absence of insurance except for U. S. Government hospitals, Medicare, Medicaid and Champus; treatment or services outside the continental United States; treatments which are not accepted or approved by the American Medical Association as an effective treatment for cancer; or drugs or substances which are not approved by the Federal Drug Administration for use in the treatment of cancer.

GENERAL PROVISIONS

Consideration. The application and the payment of the required premiums are the consideration for the policy. The receipt of the first premium is hereby acknowledged.

Premium Payments.

When Payable. Premiums are payable in advance beginning on the effective date. The schedule on page one shows the amount of premium for the mode of payment you applied for.

Where Payable. Premiums are to be paid to us either at one of our offices or to one of our agents. If premiums are paid on a monthly collection basis, a premium receipt card may be furnished in lieu of an official premium

receipt. Failure of an agent to call for a premium collection when due does not excuse the premium payment. In such event, premiums must be paid at one of our offices.

Frequency and Mode of Payment. Premiums may be paid annually, semiannually, quarterly, or monthly. The frequency of premium payments may be changed with our consent by filing a written request on a form satisfactory to and accepted by us. The change will then become effective on the next premium due date. The payment of any premium shall not continue this policy in force beyond the date when the next premium becomes due.

You may have elected to make your premium payment under a special payment mode such as Bank Budget, Government Allotment, Weekly Deduction, Credit Union or Payroll Deduction, if such a mode was available. Payment under one of these modes shall cease if: authorization for payment under such mode is terminated or withdrawn; or if a check drawn and presented for payment under the Bank Budget mode is not honored.

If payments cease under a special payment mode, you should select a new payment mode. Otherwise we will bill you by premium notice using the payment frequency we select. In either instance the premium shall change from that shown on page one. The new premium shall be what we would have charged had the policy been issued on the new payment mode. It will be due as of the end of the period through which premiums were paid on the special payment mode.

Entire Contract; Changes. This policy with the application and attached papers is the entire contract between you and the Company. No change in this policy will be

effective until approved by an officer of the Company. This approval must be noted on or attached to this policy. No agent may change this policy or waive any of its provisions.

Age Limits. Coverage provided by this policy on you will not become effective if you were over seventy-five years of age on the effective date. In the event coverage would not have become effective, our liability will be limited to a refund. Such refund must be requested by you and will be equal to all premiums paid for such coverage.

Time Limit On Certain Defenses

Misstatements In the Application. After two years from the date of issue, no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

Grace Period. This policy has a thirty-one day grace period. This means that if a renewal premium is not paid on or before the due date, it may be paid during the grace period. During the grace period, the policy will stay in force.

Reinstatement. If the renewal premium is not paid before the grace period ends, the policy will lapse. Later acceptance of the premium by us or by our agent without requiring an application for reinstatement will reinstate the policy. If an application is required, you will be given a conditional receipt for the premium. If the application is

approved, the policy will be reinstated as of the approval date. Lacking such approval, the policy will be reinstated on the forty-fifth day after the date of the conditional receipt unless we have previously written you of its disapproval. The reinstated policy will cover only loss resulting from cancer that is manifested more than ten days after the date of reinstatement. In all other respects your rights and our rights will remain the same, subject to any provision noted or attached to the reinstated policy.

Notice of Claim. Written notice of claim must be given within thirty days after any covered treatment or hospitalization starts, or as soon as reasonably possible. The notice can be given to us at our home office or to one of our agents. Notice should include your name and the policy number.

Claim Forms. When we receive a notice of claim, we will send you forms for filing proof of loss. If you do not receive these forms within fifteen days, you will meet the proof of loss requirements by giving us a written statement of the nature and extent of the loss within the time limit stated in "Proofs of Loss."

Proofs of Loss. Written proof of loss must be given to us within ninety days after the date of each loss. If it was not reasonably possible to give written proof in the time required, we will not reduce or deny the claim for this reason if the proof is filed as soon as reasonably possible. However, the proof required must be given no later than one year from the time specified unless you were legally incapacitated.

Time of Payment of Claims. Benefits provided by this policy will be paid as soon as we receive proper written proof of loss.

Payment of Claims. If you are 18 years of age or older, all benefits will be paid to you unless you direct otherwise in writing. If you are less than 18 years of age, such benefits will be paid to the person having control of this policy. Any benefit unpaid at your death may be paid at our option, to your surviving spouse or your estate. If the benefits are payable to your estate or if you cannot execute a valid release, we can pay benefits up to \$3,000 to someone related to you by blood or marriage whom we consider to be entitled to such benefits. We will be discharged to the extent of any such payments made in good faith.

Physical Examination. We may examine you when reasonably necessary for our consideration of your pending claim. This will be done at our expense.

Legal Action. No legal action may be brought to recover on this policy within sixty days after written proof of loss has been given as required by this policy. No such action may be brought after three years from the time written proof of loss is required to be given.

Misstatement Of Age. If your age has been misstated the benefits provided by this policy will be those the premium would have purchased at the correct age. For the purpose of this policy, your age will be the age last birthday on the effective date of coverage. If your correct age is such that this policy would not have become effective or would have terminated, then our liability will be limited to a refund. Such refund must be requested by

you and will be equal to the portion of the premiums paid for the period not covered by this policy and attributable to such covered person.

Coverage Limited To One Policy. If you are also insured under another cancer policy issued by us, only one policy chosen by you will be effective. We will refund the premiums for the other policy for the period such policy was in force concurrently with the policy chosen.

Conformity With State Statutes. Any provision of this policy which, on its effective date, is in conflict with the laws of the state in which you reside on that date, is amended to conform to the minimum requirements of such laws.

Assignment. You may assign benefits under this policy. However, we will not be bound by any assignment unless it is in writing and acknowledged by us at our home office. We will not be responsible for the validity of any assignment.
